

**EXHIBIT B**  
**Google 30(b)(6) Deposition**  
**Submitted Under Seal**

**In the Matter Of:**

*Civil Investigation Demand - No. 30762*

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[REDACTED]

*February 28, 2022*

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1 UNITED STATES DEPARTMENT OF JUSTICE  
2 ANTITRUST DIVISION, WASHINGTON, D.C.

3 PURSUANT TO CIVIL INVESTIGATION DEMAND NO. 30762

4  
5 "HIGHLY CONFIDENTIAL"

6  
7 30(b)(6) DEPOSITION OF

8 [REDACTED]  
9 ON BEHALF OF ALPHABET, INC.

10 FEBRUARY 28, 2022

11  
12 ORAL VIDEOTAPED DEPOSITION OF [REDACTED]

13 produced as a witness at the instance of the United  
14 States Department of Justice and duly sworn, was taken  
15 in the above-styled and numbered cause on the 28th day  
16 of February, 2022, from 8:36 a.m. to 5:59 p.m. PST,  
17 before Melinda Barre, Certified Shorthand Reporter in  
18 and for the State of Texas, reported by computerized  
19 stenotype machine, all parties appearing remotely via  
20 web videoconference, pursuant to the rules of procedure  
21 and the provisions stated on the record or attached  
22 hereto.

23

24

25

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(ALL APPEARED VIA ZOOM VIDEO CONFERENCE.)

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[REDACTED]; Seumas Macneil;  
[REDACTED]; Daniel Bitton

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1 THE VIDEOGRAPHER: Good morning. We are  
2 now on the record. Today's date is February 28th, 2022.  
3 The time is 8:36 a.m. Pacific Time. This is the video  
4 deposition of the 30(b)(6) for Alphabet, Inc., [REDACTED]  
5 [REDACTED] This is in the Google matter, Case  
6 No. 60-516110-0009.

7 This deposition is taking place via web  
8 video conference with all participants attending  
9 remotely. My name is Ryan LaFond. I am videographer.  
10 Our court reporter today is Melinda Barre. We represent  
11 Lexitas.

12 Would counsel please identify yourself,  
13 state whom you represent beginning with the questioning  
14 attorney.

15 MR. NAKAMURA: Good morning. This is  
16 Brent Nakamura from the U.S. Department of Justice  
17 Antitrust Division. I'm a trial attorney with the  
18 Division, and I'm joined by my colleagues, Arshia  
19 Najafi, a trial attorney with the Division, and Seumas  
20 Macneil, also who is a paralegal with the Division.  
21 Additional personnel may join the deposition later.

22 MS. ELMER: I'm Julie Elmer with  
23 Freshfields. I'm here for Google and the witness. With  
24 me today is [REDACTED] and [REDACTED], in-house  
25 counsel at Google; Daniel Bitton from the Axinn law

1 firm; and Daphne Lin, my colleague at Freshfields.

2 Before we get started today, I'd like to  
3 designate the entire transcript highly confidential.

4 I'd also like to note for the record the  
5 deferrals of CID topics relating to Projects Metta,  
6 Garamond and 1Door, in accordance with our  
7 correspondence and the DOJ's correspondence of  
8 November 8 and November 9, 2021.

9 We also object to the topics set forth in  
10 the CID as improper to the extent they seek to invade  
11 the attorney/client privilege and the attorney work  
12 product doctrine. The company's designation of a  
13 30(b)(6) witness to testify regarding the undeferred  
14 projects set forth in the CID does not constitute a  
15 waiver of the attorney/client privilege or the work  
16 product doctrine.

17 THE VIDEOGRAPHER: Will the reporter  
18 please swear in the witness.



1 [REDACTED]  
2 having been first duly sworn, testified as follows:

3 EXAMINATION

4 QUESTIONS BY MR. NAKAMURA:

5 Q. Good morning, [REDACTED] As I said earlier,  
6 my name is Brent Nakamura, and I'm a trial attorney with  
7 the Department of Justice Antitrust Division. We last  
8 spoke on August 11th, so pleasure to see you again.

9 Let me begin with a few housekeeping  
10 matters related to virtual depositions. I know we went  
11 over these issues in your August 11th, 2021 deposition;  
12 but I want to make sure that we are both clear on these  
13 rules.

14 First, there could be technical issues  
15 today with the video conference. If there are, we will  
16 take a break and resolve them off the record.

17 You are permitted to consult with your  
18 lawyer if needed during the deposition. If you need to  
19 do so, please request a break and we will go off the  
20 record. You can then meet privately with your counsel  
21 in a virtual breakout room that has been set up for you.

22 You are not permitted to communicate with  
23 others or consult documents or notes other than things  
24 we specifically discuss and agree to while we are on the  
25 record.

1                   While I'm at that, do you have any notes  
2 in front of you right now?

3           A.     I have a letter that was provided to you.

4           Q.     And what is the date on the letter?

5           A.     I believe it's Feb. 25.

6           Q.     Thank you. We will circle back to discussing  
7 that.

8                   Do you have anything else in front you in  
9 the form of notes or aids that would help you testify  
10 today?

11          A.     No, not immediately at hand.

12          Q.     Great.

13                   When we are taking a break and not on the  
14 record, you may communicate with third parties. For  
15 example, you can check work e-mail and you can text  
16 family members; but you should not discuss today's  
17 deposition with third parties while it is ongoing. Do  
18 you understand that?

19          A.     Yes.

20          Q.     We will review documents during today's  
21 deposition. I will share them with you electronically  
22 and give you time to review them. For longer documents  
23 I will direct you to the parts about which I will ask  
24 questions.

25                   Do you agree to these initial ground

1 rules?

2 A. Yes.

3 Q. Great.

4 So now I'd like to go over some additional  
5 ground rules for this specific deposition. While I took  
6 part of your deposition on August 11th in your personal  
7 capacity, several different rules apply to today's  
8 deposition because your company, Alphabet, has  
9 designated you as its corporate representative for the  
10 purposes of this deposition.

11 First, do you understand that you are  
12 providing testimony today in response to the civil  
13 investigative demand that I will later introduce as  
14 Exhibit 1 on behalf of Alphabet, Incorporated?

15 A. I'm sorry. Can you repeat that?

16 Q. Sure. Do you understand that you're providing  
17 testimony today on behalf of Alphabet, Incorporated?

18 A. Yes.

19 Q. From time to time I may refer to Alphabet as  
20 either "Alphabet" or "Google." By using either name, I  
21 mean to ask you questions about the corporate position,  
22 understanding, knowledge and/or testimony of Alphabet.

23 If there is any testimony you provide  
24 today for which the distinction between Google and  
25 Alphabet is relevant, you must explicitly inform me of

1 that fact. Do you agree to that?

2 A. Yes.

3 Q. If there is another relevant distinction based  
4 on the status of any subsidiary of Alphabet, you must  
5 explicitly inform me of that. Do you agree to that?

6 A. Uh-huh.

7 Q. I'm sorry. Please answer "yes" or "no."

8 A. Yes.

9 Q. Thank you.

10 When I ask you a question, I'm asking you  
11 as the representative of Alphabet, and I will assume  
12 that the answers that you provide are on behalf of  
13 Alphabet. If you are providing testimony in your  
14 personal capacity and not on behalf of Alphabet, you  
15 must explicitly tell me that.

16 Do you understand that?

17 A. Yes.

18 Q. Great. You as the corporate representative of  
19 Alphabet are under oath today and sworn to tell the  
20 truth just like if you were testifying in court. This  
21 requirement to tell the truth extends to any and all  
22 testimony you give, whether on behalf of yourself in  
23 your personal capacity or on behalf of Alphabet.

24 Do you understand that?

25 A. Yes.

1 Q. Great. For the sake of the court reporter and  
2 especially because this deposition is being conducted  
3 remotely, we both need to speak loudly and clearly.  
4 Please wait until I finish a question before answering  
5 so we don't speak over each other. I will try my best  
6 to do so as well.

7 Please answer questions with a "yes" or  
8 "no" instead of a nod or a "yeah."

9 If any of my questions are unclear or you  
10 don't understand what I'm asking, please let me know;  
11 otherwise, I will assume you understand the question as  
12 I asked it.

13 You are required to answer each of my  
14 questions truthfully and to the full extent of  
15 Alphabet's knowledge. Specifically, even if you do not  
16 know the complete answer to my question, as Alphabet's  
17 representative, you're required to provide me with any  
18 knowledge Alphabet has in response to my question.

19 Do you understand that?

20 A. Yes.

21 Q. Great. At times your attorney may object to  
22 one of my questions. When there is an objection, you  
23 should wait until your attorney and I are finished  
24 discussing her objection. You must then answer my  
25 question unless your lawyer specifically instructs you

1 not to do so and you make the affirmative choice not to  
2 answer my question.

3 Do you understand that?

4 A. Yes.

5 Q. Great. When I ask a question, I am not asking  
6 you to disclose the substance of any privileged  
7 communications you may have had with your attorney.

8 I will try to take breaks at reasonable  
9 intervals during our discussion today. If you need to  
10 take a break at any time, please let me know. However,  
11 I ask that you not take a break while there is a  
12 question pending; that is, when I have asked a question  
13 but you have not yet answered the question.

14 Do you have any questions about these  
15 ground rules?

16 A. No.

17 Q. Will you abide by each of the rules I have laid  
18 out?

19 A. Yes.

20 Q. Is there anything such as medication you have  
21 taken that would prevent you from understanding my  
22 questions today?

23 A. No.

24 Q. Is there anything else that would prevent you  
25 from giving full, complete, honest testimony today?

1 A. No.

2 Q. Do you understand that you're here today  
3 pursuant to a civil investigative demand issued to  
4 Alphabet in connection with a DOJ investigation?

5 A. Yes.

6 MR. NAKAMURA: Seumas, could you please  
7 upload tab 1 into the Chat. Thank you.

8 I'd like the court reporter to please mark  
9 this as Alphabet Exhibit 1.

10 (Exhibit 1 marked)

11 Q. (By Mr. Nakamura) [REDACTED] please let me  
12 know when you have this in front of you.

13 Do you have the exhibit in front of you?

14 A. No.

15 Q. It's in the Chat. If you want to open the Chat  
16 window, it should have been dropped in the Chat.

17 A. My Chat is empty.

18 Q. That's strange.

19 MR. NAKAMURA: Julie, do you have the  
20 exhibit?

21 MS. ELMER: I do.

22 MR. NAKAMURA: Okay. Let's go off the  
23 record for a second.

24 THE VIDEOGRAPHER: Off the record at  
25 8:46 a.m.

1 (Recess taken)

2 THE VIDEOGRAPHER: Back on the record at  
3 8:53 a.m.

4 Q. (By Mr. Nakamura) All right. We have solved  
5 that technical problem. So let's move forward.

6 [REDACTED] do you have what has been  
7 marked as Alphabet Exhibit 1 in front of you?

8 A. Yes.

9 Q. Great. This is Civil Investigative Demand  
10 No. 30769 issued on August 23rd, 2021. Is this the  
11 civil investigative demand that you are here in response  
12 to?

13 A. Yes, I believe so.

14 Q. Okay. Do you have any reason to believe that  
15 you are not here in response to this civil investigative  
16 demand?

17 A. No. But my hesitation is merely that there's a  
18 lot of detail provided here. So I would defer to my  
19 lawyers to make sure this is the correct one. But yes,  
20 my understanding is that this is the subject matter for  
21 why I'm here.

22 MS. ELMER: I object to the extent that  
23 there are no specifications that are attached to this  
24 copy. This is just the cover portion of the CID. So I  
25 think what's confusing is that the specifications are



1 not included here.

2 MR. NAKAMURA: Sure. Seumas, could you  
3 upload tab 2.

4 And could the court reporter please mark  
5 this as Alphabet Exhibit 2.

6 (Exhibit 2 marked)

7 Q. (By Mr. Nakamura) [REDACTED] please let me  
8 know when you have that in front of you.

9 A. Yes, I have that in front of me.

10 Q. All right. As Ms. Elmer was saying, this is  
11 the schedule that was attached to the civil  
12 investigative demand. Have you seen this document  
13 before?

14 A. Yes.

15 Q. And is this the schedule of questions or topics  
16 that you are here in response to?

17 A. With -- yes with the exception that several of  
18 the projects here, I believe, are out of scope for this  
19 discussion.

20 Q. Yes. We will get to that, and I appreciate you  
21 noting that.

22 When did Alphabet notify you that it was  
23 considering designating you as the representative for  
24 this deposition?

25 A. Approximately a month ago.

1 Q. And when did Alphabet decide that you  
2 specifically would be its representative for this  
3 deposition?

4 A. Shortly after that discussion.

5 Q. So about a month ago is at the end of  
6 January 2022. Is that correct?

7 A. Yes.

8 Q. Great. Do you understand the civil  
9 investigative demand and the schedule that was attached  
10 to it as Alphabet Exhibits 1 and 2?

11 A. Yes.

12 Q. Do you have any questions about anything  
13 contained in Exhibits 1 or 2?

14 A. No.

15 Q. I'm going to reference specifically Exhibit 1,  
16 which is the civil investigative demand itself. Do you  
17 understand that the information you provide during this  
18 deposition may be used by the Department of Justice in  
19 other civil, criminal, administrative or regulatory  
20 cases or proceedings?

21 A. Yes.

22 Q. All right. For Exhibit 2, this is the civil  
23 investigative demand schedule that is part of what I  
24 introduced to you as Exhibit 1. So are you prepared to  
25 testify about the matters in this schedule other than

1 specifications 1e, 1h and 1i as well as specification 2  
2 as related to those three deferred topics?

3 A. Yes.

4 Q. Are there any matters or parts of matters  
5 listed in this schedule other than those that have been  
6 deferred about which you are not prepared to testify to?

7 A. No.

8 Q. Aside from what you have learned from your  
9 counsel, what is your understanding of what the justice  
10 department is investigating?

11 A. My understanding is that the justice department  
12 is investigating general antitrust in the advertising  
13 ecosystem.

14 Q. And what is that understanding based on?

15 A. That's based on a number of articles I've seen  
16 provided as well as the letters and the discussions that  
17 have been provided as well as the testimony that I have  
18 reviewed, you know, and the questions that have been  
19 asked.

20 Q. And what articles that you have seen have  
21 helped you understand what this investigation is?

22 A. I believe they were articles published about --  
23 and I could be mistaken here and I can look  
24 specifically -- but about the DOJ inquiring into Google.

25 Q. Do you recall what publications those were

1 published in?

2 A. Specifically no, but I can search for them if  
3 you'd like.

4 Q. No. That's okay.

5 How long ago did you read those articles?

6 A. This would have been a while ago because my  
7 understanding is that this investigation has been going  
8 on for quite a while and -- in addition to, you know,  
9 the preparation for my last deposition as well, you  
10 know, that the subject matter's fairly clear.

11 Q. Okay. And have you discussed this  
12 investigation with others at Google other than your  
13 attorneys?

14 A. No.

15 Q. Have you discussed this investigation with  
16 anyone outside of Google other than your attorneys?

17 A. No.

18 Q. Besides your attorneys, did you meet with  
19 anyone to prepare for this deposition?

20 A. Yes.

21 Q. Who was it?

22 A. I had conducted two interviews with my  
23 attorneys -- so I don't know if that changes the answer  
24 or not -- but to inquire about times and dates and in  
25 particular involvement of individuals in the subject

1 matter requested in the CID.

2 Q. Okay. I will get to your preparation in just a  
3 little bit, but I thank you for that.

4 So let me speak to you now about any  
5 previous deposition experience that you've had. Have  
6 you personally ever been a plaintiff or defendant in a  
7 lawsuit?

8 A. Does it count if I'm representing a  
9 corporation?

10 Q. I'll ask you about that in a second, but have  
11 you ever been named as a plaintiff or defendant in a  
12 lawsuit, meaning your name would have been on the  
13 caption, [REDACTED] versus someone, for example?

14 A. No.

15 Q. Thank you. Since August 11th, 2021, which is  
16 your last deposition, have you been deposed?

17 A. No.

18 Q. Have you ever been deposed as a designated  
19 representative of any company, whether pursuant to the  
20 Federal Rules of Civil Procedure or other rules or  
21 statutes?

22 A. So I'm not a lawyer, so I don't know what  
23 qualifies there. But I believe you asked the questions  
24 prior, and I've had one deposition that I've been  
25 involved with previously and that was on behalf of

1 Google in an IP matter.

2 Q. Got it. Thank you.

3 So specifically about your preparation for  
4 this deposition, what did you do to prepare for this  
5 deposition?

6 A. Did a number of things. So first off reviewed  
7 the CID to understand which topics were to be discussed.  
8 I spoke with a few individuals about people and times,  
9 looked at a number of documents to understand -- or  
10 looked at specifically the metadata about the documents  
11 to understand when they were created, who else was  
12 involved.

13 I reviewed my calendar to see when these  
14 projects took place, again, who was involved. I also  
15 reviewed timelines and time frames of letters and public  
16 articles about numerous investigations that I believe  
17 are related to this.

18 I also reviewed the testimony of a number  
19 of my colleagues that were provided to you earlier to  
20 review both what they had said and to make sure that any  
21 discrepancies would be accounted for.

22 I think that's -- that's most of -- most,  
23 if not all, of the preparation.

24 Q. Thank you. That's a very good introduction.

25 So which individuals -- what are the names

1 of the individuals with whom you spoke in preparation  
2 for this deposition?

3 A. Yes. I spoke with [REDACTED] and [REDACTED]

4 Q. And could you spell their names, please?

5 A. Sure. [REDACTED], last name [REDACTED]

6 [REDACTED]. And [REDACTED].

7 Q. Thank you. And what is [REDACTED] job title  
8 and responsibilities at Alphabet?

9 A. He is a principal engineer, and he is  
10 responsible for -- actually, I don't know what he's  
11 responsible for now; but during these projects he was  
12 responsible for ad serving on the AdManager product.

13 Q. And how many times did you meet with

14 [REDACTED]

15 A. In preparation?

16 Q. Yes.

17 A. One, one time.

18 Q. And how long was that meeting?

19 A. Approximately half hour.

20 Q. And who else was present at that meeting?

21 A. The attorneys present here, as well as another  
22 attorney.

23 Q. What is the name of that other attorney?

24 A. [REDACTED] He's an in-house counsel.

25 Q. And for [REDACTED] what is her job title, what

1 are her job responsibilities currently at Alphabet?

2 A. She is a director of corporate development, and  
3 she covers the ads area as well as some other areas.

4 Q. What are those other areas, to the best of your  
5 knowledge?

6 A. I don't know. Possibly payments and shopping.

7 Q. And how many times did you meet with [REDACTED]

8 A. For preparation I met with her one time.

9 Q. On what date did you meet with her?

10 A. Friday, February 18th.

11 Q. And what date did you meet with [REDACTED]

12 A. The same.

13 Q. And how long was your meeting with [REDACTED]

14 A. 30 minutes.

15 Q. And who else was present at that meeting?

16 A. The same group I identified before, legal.

17 Q. To be clear, when you say the attorneys that  
18 are here for this deposition, do you mean every one of  
19 the attorneys that is here currently?

20 A. Yes.

21 Q. And [REDACTED] in-house counsel for  
22 Alphabet, was also present at your meeting with  
23 [REDACTED] correct?

24 A. Yes.

25 Q. Did you speak to any other individuals in



1 preparation for this deposition?

2 A. No.

3 Q. While you were meeting with [REDACTED] and  
4 [REDACTED] did you review any documents that they  
5 provided to you?

6 A. No.

7 Q. Did you review any documents during your  
8 sessions with either [REDACTED] or [REDACTED]

9 A. No.

10 Q. So you also said that you reviewed documents in  
11 preparation for this deposition. About how many  
12 documents did you review?

13 A. Just to be specific, I reviewed the document  
14 information, but I didn't go through documents. So I  
15 would pull up a document to look at when it was created,  
16 who's in the share part and who was the owner. That's  
17 the three pieces of information I was looking for.

18 Q. So when you say "I reviewed the document  
19 information," you mean you restricted your review to the  
20 metadata on that document. Is that correct?

21 A. Yes.

22 Q. And to further clarify for the record, that  
23 also means that you did not view the content of any of  
24 the documents you reviewed in preparation for this  
25 deposition. Is that correct?

1 A. Yes. Not for preparation, that's correct.

2 Q. Did you for any other reason review the  
3 contents of the documents that you also viewed in  
4 preparation for this deposition?

5 A. I did not review them now. I think the  
6 distinction here is that I was integral in the  
7 preparation of materially all of the docs noted. So  
8 there was no purpose for me to review the docs.

9 Q. Thank you. I appreciate that.

10 So in total, how many documents' metadata  
11 did you review in preparation for this deposition?

12 A. Approximately between five and ten, probably  
13 closer to ten documents.

14 Q. And you also stated that you reviewed your own  
15 calendar in preparation for this deposition. Is that  
16 correct?

17 A. Yes.

18 Q. And how long did you spend reviewing your own  
19 calendar for this deposition?

20 A. About an hour.

21 Q. And did you take any notes based on what you  
22 saw in your calendar in preparation for this deposition?

23 A. No. I was in discussion with counsel while  
24 reviewing, and I noted the dates --

25 MS. ELMER: Please don't share what you

1 told counsel.

2 THE WITNESS: Oh, okay.

3 A. So what was the question again? Did I take  
4 notes?

5 Q. (By Mr. Nakamura) Yes.

6 A. No.

7 Q. Thank you.

8 But you conveyed information to your  
9 counsel regarding what was on your calendar during those  
10 discussions. Is that correct?

11 MS. ELMER: Objection, calls for  
12 attorney/client privilege. I instruct the witness not  
13 to answer.

14 MR. NAKAMURA: What is the basis for your  
15 instruction? I'm simply asking whether he conveyed  
16 information, not what information was conveyed.

17 MS. ELMER: You may share whether you  
18 conveyed information or not, [REDACTED]

19 MR. NAKAMURA: Thank you.

20 A. Information was conveyed.

21 Q. (By Mr. Nakamura) And that was over the phone  
22 at the same time you were reviewing your calendar. Is  
23 that correct?

24 A. Yes.

25 Q. Thank you. Did you review anyone else's

1 calendars in preparation for this deposition?

2 A. I personally did not.

3 Q. Did anyone convey information to you about  
4 other Alphabet employees' calendars in preparation for  
5 this deposition?

6 A. It's possible that as I was asking questions,  
7 that some of that was through my colleagues looking at  
8 their cameras -- or, sorry, calendars. But I don't know  
9 specifically if that's what they were doing.

10 Q. And when you say your colleagues, you mean only  
11 [REDACTED] and [REDACTED] Is that correct?

12 A. Yes.

13 Q. Thank you. You also said that in preparation  
14 for this deposition you reviewed testimony from Alphabet  
15 employees. What were the names of the individuals for  
16 whom you reviewed testimony?

17 A. [REDACTED], Philipp Schindler, [REDACTED]  
[REDACTED] [REDACTED] And I think -- and

19 [REDACTED]

20 Q. Let me just go through and clarify this for the  
21 record.

22 So the first person was [REDACTED]  
[REDACTED], correct?

24 A. [REDACTED], yes.

25 Q. Thank you for that.

1 And the second person was Philipp  
2 Schindler. Is that correct?

3 A. Yep.

4 Q. The third person is [REDACTED] Is that  
5 correct?

6 A. Yep.

7 Q. The fourth person is [REDACTED] [REDACTED].  
8 Is that correct?

9 A. Yep.

10 Q. The second-to-last person is [REDACTED]  
11 Is that correct?

12 A. Yep.

13 Q. And the last person is [REDACTED]  
14 [REDACTED]. Is that  
15 correct?

16 A. Yes. As well as my own.

17 Q. As well as your own deposition. Thank you.

18 A. Uh-huh.

19 Q. In reviewing these depositions, did you review  
20 the entire deposition, portions that counsel selected  
21 for you, or some other subset of the deposition?

22 A. I reviewed portions specific to the CID.

23 Q. And who identified those portions for you?

24 A. Counsel helped me identify those areas.

25 Q. And so other than the portions that you

1 reviewed based on the instruction of counsel, did you  
2 review any other portions of the deposition?

3 A. Incidentally possibly to understand the  
4 transitions, and that's it. Primarily just those  
5 specific areas.

6 Q. Thank you for that.

7 And approximately how long in total did  
8 you spend reviewing these depositions?

9 A. I would say between -- probably about three  
10 hours.

11 Q. And in preparation for this deposition, how  
12 many times did you meet with your attorneys?

13 A. About five times.

14 Q. And what are the --

15 A. Maybe more.

16 Q. I'm sorry.

17 A. Maybe more, yeah.

18 Q. And when was the first time in preparation for  
19 this deposition that you met with your attorneys?

20 A. It would have been very early February or  
21 possibly end of January, that time frame.

22 Q. And which attorneys did you meet with at that  
23 first meeting?

24 A. It would have been the counsel on this call,  
25 all, as well as [REDACTED]

1 Q. And when was the second meeting, to the best of  
2 your knowledge, with your attorneys in preparation for  
3 this deposition?

4 A. That would have been, you know, about the week  
5 of Feb. 7.

6 Q. I apologize for skipping around. How long was  
7 your first meeting with your attorneys in preparation  
8 for this deposition?

9 A. The first meeting, I believe it was 30 minutes.

10 Q. Okay. Thank you.

11 And for the second meeting approximately  
12 the week of February 7th, which attorneys were present  
13 at that meeting?

14 A. It's the same group.

15 Q. Okay. And approximately how long was that  
16 meeting?

17 A. About three hours, two to three hours.

18 Q. Okay. And for the third meeting, when did that  
19 occur in preparation for this deposition?

20 A. I believe that same week, the 7th.

21 Q. Okay. And was it the same group of  
22 attorneys --

23 A. Yes.

24 Q. -- in that meeting?

25 A. Yes.

1 Q. And about approximately how long was that  
2 meeting?

3 A. About three hours.

4 Q. And when did the fourth meeting with your  
5 attorneys occur in preparation for this deposition?

6 A. I believe it would have been the following  
7 week.

8 Q. So the week of February 14th. Is that correct?

9 A. Yes.

10 Q. And who was at that meeting?

11 A. Again, the same group.

12 Q. And how long was that meeting?

13 A. About three hours.

14 Q. And for the fifth meeting in preparation for  
15 this deposition with your attorneys, when did that take  
16 place?

17 A. I believe that would have been on the 18th.

18 Q. And who was at that meeting?

19 A. The same group.

20 Q. And how long was that meeting?

21 A. Between 30 and 60 minutes.

22 Q. Have you had any meetings with your attorneys  
23 subsequent to the 18th of February in preparation for  
24 this deposition?

25 A. There were several meetings on the 18th



1 relating to those other interviews as well that I had  
2 mentioned earlier that involved counsel.

3 Q. So on the 18th you met three times, once with  
4 your attorneys?

5 A. Yep.

6 Q. Once with [REDACTED] and your attorneys?

7 A. Yep.

8 Q. And once with [REDACTED] and your attorneys. Is  
9 that correct?

10 A. Yes.

11 Q. Thank you. And after the 18th did you have any  
12 subsequent meetings with your attorneys in preparation  
13 for this deposition?

14 A. Yes. We met this morning.

15 Q. And how long did you meet for?

16 A. 45 minutes.

17 Q. And you had no meetings with your attorneys to  
18 prepare for this deposition between the 18th of February  
19 and today, this morning. Is that correct?

20 A. Correct.

21 Q. So let me turn now to round out the sort of  
22 preliminaries for this deposition. Is your full legal  
23 name [REDACTED]

24 A. Yes.

25 Q. Have you gone by or used any other names

1 before?

2 A. I go by [REDACTED] [REDACTED]

3 Q. Are there other names or nicknames that people  
4 call you at work other than [REDACTED]

5 A. No.

6 Q. Are you currently employed by Alphabet?

7 A. Yes.

8 Q. Where is your office located?

9 A. It's in Mountain View.

10 Q. Do you have an office telephone number?

11 A. No.

12 Q. Do you have a cellular telephone that you use  
13 for work?

14 A. Yes.

15 Q. And what is the phone number associated with  
16 that work cell phone?

17 A. [REDACTED]

18 Q. What is your current job title at Alphabet?

19 A. Director of product management.

20 Q. Is there a formal classification associated  
21 with your current job, such as level 9?

22 A. Yes.

23 Q. And what is that classification?

24 A. Level 9.

25 Q. Is this the same job that you have held since

1 your last deposition in this matter on August -- in  
2 August of 2021?

3 A. Yes.

4 Q. What department or division of Alphabet do you  
5 currently work in?

6 A. I work in the ADVA team, which is the apps  
7 display and video advertising.

8 Q. And how long have you held this position?

9 A. The level or the role?

10 Q. Well, why don't we start with the role and then  
11 you can tell me the level.

12 A. The role, since late August of 2019.

13 Q. And how long have you held the level 9  
14 position?

15 A. Since October of 2020.

16 Q. What are your current job responsibilities at  
17 Alphabet?

18 A. I'm responsible for the product -- for the  
19 products that are publisher facing in advertising.

20 Q. And what are the names of those products?

21 A. AdManager, the ad exchange which is known as  
22 authorized buyers and open bidding, AdMob and AdSense.

23 Q. Do you do work on Google ads?

24 A. So technically that product would not fit into  
25 my portfolio, although it is a marketplace. So those

1 ads would flow through my products.

2 Q. And do you do work outside of your current job  
3 responsibilities at Alphabet?

4 A. Yes.

5 Q. And what is that work?

6 A. I'm sorry. Can you rephrase the question?  
7 That's a little ambiguous.

8 Q. Sure. You described to me earlier what your  
9 job responsibilities were, and we just discussed Google  
10 ads which, as you said, flows through the product. And  
11 I just want to make sure that I understand what other  
12 products you may work with even though they are not part  
13 of your job responsibilities.

14 A. Gotcha.

15 Q. So if you could help me with that, I would  
16 appreciate it.

17 A. Sure. Yeah. So I'm on the global news  
18 initiative board.

19 Q. And what is the global news initiative board?

20 A. So the global news initiative is a fund that  
21 Google allocates to help the journalism industry. So  
22 while some of that pertains to advertising, the majority  
23 of those activities don't have anything to do with  
24 advertising.

25 I'm also on the Ads, Inc. board of

1 directors, which is an internal fund to start up new and  
2 unusual initiatives inside of the general ads PA beyond  
3 the portions that I work on directly.

4 Q. And what -- I'm sorry. What do you mean by  
5 "PA"?

6 A. Product area.

7 Q. And when you say the Ads, Inc. board of  
8 directors is an internal fund, do you mean that Alphabet  
9 provides funding to projects within the company?

10 A. It's a fund that provides funding, primarily  
11 externally and sometimes internally.

12 Q. And can you provide an example of what an  
13 externally funded project would be?

14 A. Sure. They give grants to various journalists.  
15 They fund trainings for journalism on a global basis,  
16 things like that.

17 Q. And are there any other projects that you work  
18 on that are outside the scope of your job  
19 responsibilities at Alphabet?

20 A. I am responsible for certain fireside chats and  
21 trainings for product managers in general across all of  
22 Google.

23 Q. And what is the purpose of those fireside  
24 chats?

25 A. To train our product managers on how to be

1 better managers.

2 Q. And what would you describe as the subject  
3 matter of that training?

4 A. It's varied. Depends on what's topical. For  
5 example, what makes a great manager, how to manage a  
6 team partly remote and partly on-site.

7 Q. Okay.

8 A. Things like that. Career coaching.

9 Q. Very helpful. Thank you.

10 Are there any other projects that you work  
11 on that are outside your job responsibilities at  
12 Alphabet?

13 A. Nope.

14 Q. Thank you. And currently to whom do you report  
15 at Alphabet?

16 A. I report to [REDACTED]

17 Q. And what is [REDACTED] title?

18 A. He's the general manager of YouTube ads and  
19 ADVA, apps display and video ads.

20 Q. And to whom does [REDACTED] report?

21 A. To [REDACTED]

22 Q. And to whom does [REDACTED] report?

23 A. To [REDACTED]

24 Q. And how many people at Alphabet report to you?

25 A. In my organization or directly?

1 Q. Directly.

2 A. Five.

3 Q. And what are their names and titles?

4 A. [REDACTED]  
[REDACTED].

6 Q. And what are the titles of those five  
7 individuals?

8 A. In order, director of product management,  
9 director of product management, director of product  
10 management, group product manager and administrative --  
11 executive administrative assistant.

12 Q. And how many people in your organization report  
13 to you?

14 A. Approximately 50.

15 Q. And what are the subject matter areas that  
16 those 50 people work in who report to you in your  
17 organization?

18 A. It's all product management for the products  
19 that I described earlier.

20 Q. And to be clear, the products you described  
21 earlier that are within the scope of your job  
22 responsibilities. Is that correct?

23 A. Yes.

24 Q. Thank you. In your current position, since  
25 assuming your position, have your job responsibilities

1 changed?

2 A. No.

3 Q. Do you currently work on regulatory,  
4 investigation or litigation matters?

5 A. Yes.

6 Q. Which ones?

7 A. So there's a number. So the U.K. ICO relating  
8 to GDPR, the Texas AG suit, this investigation with the  
9 Department of Justice, the U.K. Competition Markets  
10 Authority, the ACCC -- that's the Australian Competition  
11 something -- and the Irish DPA, Data Protection  
12 Authority.

13 Q. Do you work on any other regulatory,  
14 investigation or litigation matters?

15 A. I'm sorry. Can you -- are you asking about  
16 litigation?

17 Q. Other than those listed --

18 A. Yeah.

19 Q. -- that you just listed, do you work on any  
20 regulatory, investigation or litigation matters? So  
21 yes, it would include litigation. I'm just trying to  
22 make sure your list is complete.

23 A. Got it. I'm just trying to understand what you  
24 mean by "investigation." Do you mean I'm investigating  
25 or do you mean they're investigating?



39

1 Q. That's a great question. Thank you for asking.

2 For example, a government agency like us  
3 is investigating, so not any internal investigation that  
4 you're working on but any investigation that comes from  
5 outside of Alphabet.

6 A. Yeah. Yes, I believe there are others but not  
7 related to the discussion today.

8 Q. Well, I will just tell you this. It is my view  
9 that as part of the qualifications of the witness, I  
10 need to assess the amount of work you do on these  
11 investigative matters. And unless your counsel objects  
12 and instructs you not to answer, all I am looking for is  
13 the name of what those are.

14 So unless Ms. Elmer would like to enter an  
15 objection, please let me know what the names of any  
16 other litigation, external investigation or regulatory  
17 matters that you work on are.

18 MS. ELMER: Yeah. The names of the  
19 investigating authorities are fine to share, [REDACTED]

20 THE WITNESS: Okay.

21 A. New Mexico Attorney General.

22 MS. ELMER: And, [REDACTED] if you need to  
23 refer to the letter that you had mentioned earlier that  
24 is in front of you today or that you brought with you  
25 today to make sure that you've given a complete list,

1 feel free to.

2 A. The European Commission would be the other one  
3 that is relevant. Beyond that for investigations, no,  
4 that's it.

5 Q. (By Mr. Nakamura) Are there any litigation  
6 matters other than the Texas AG lawsuit you just  
7 mentioned that you work on currently?

8 A. Yes.

9 Q. And what are those? Just the names, please.

10 A. Those are relating -- that's a number of cases  
11 all relating just to typical IP litigation.

12 Q. Are there any litigation matters on which you  
13 are working for Alphabet that do not relate to IP  
14 litigation?

15 MS. ELMER: Other than the Texas AG  
16 lawsuit?

17 MR. NAKAMURA: Yes. Thank you, Julie.

18 Q. (By Mr. Nakamura) Other than the Texas AG  
19 lawsuit.

20 MS. ELMER: And the MDL cases associated  
21 with it?

22 MR. NAKAMURA: Yes.

23 Q. (By Mr. Nakamura) You did not, [REDACTED]  
24 mention the MDL cases associated with that Texas AG  
25 lawsuit. Are you working on the MDL cases associated

1 with the Texas AG lawsuit?

2 A. I'm sorry. What does MDL refer to?

3 MS. ELMER: Multi-district litigation.

4 Q. (By Mr. Nakamura) Those are the private  
5 plaintiff lawsuits that are associated with the Texas AG  
6 lawsuit. Are you working on those?

7 A. I don't know if those are wrapped up in the  
8 same discussions, so I don't know.

9 Q. Okay. That's fine.

10 Just so we're clear, are you a lawyer?

11 A. No.

12 Q. Do you ever provide legal advice for Alphabet?

13 A. No.

14 Q. What percentage of your time as an employee of  
15 Alphabet are spent on regulatory, investigation or  
16 litigation matters?

17 A. About 60 percent.

18 Q. And how would you describe your role with  
19 respect to regulatory, investigative or litigation  
20 matters at Alphabet?

21 A. So I'm responsible for defining the direction  
22 of our business with respect to the regulatory changes,  
23 yeah.

24 Q. What do you mean by "defining the direction of  
25 our business"?

1 MS. ELMER: And to the extent that your  
2 question, Brent, invades the work product doctrine or  
3 the attorney/client privilege, I instruct the witness  
4 not to answer.

5 To the extent that you can answer in a way  
6 that doesn't share privileged information, you may do  
7 so.

8 A. So with new regulatory changes and prospective  
9 regulatory changes, there likely would be changes  
10 required to our business such as things that happened  
11 with GDPR.

12 So I'm responsible for finding a way to  
13 ensure that we continue to comply with the changing  
14 regulations as well as the general, you know,  
15 competitive marketplace here. So I'm responsible for  
16 charting that path for our business.

17 Q. (By Mr. Nakamura) And do you provide, as part  
18 of this role, any financial projections or business  
19 analyses as part of Alphabet's response to potentially  
20 required changes to your business in response to these  
21 regulations?

22 MS. ELMER: I instruct the witness not to  
23 answer to the extent that this invades the work product  
24 doctrine or the attorney/client privilege.

25 A. I mean, of course I do. Like we're trying to

1 run a business. How do you not take those things into  
2 account?

3 Q. (By Mr. Nakamura) And who at Alphabet prepares  
4 these financial projections or business analyses that  
5 you provide as part of this role?

6 A. Financial is typically prepared by finance in  
7 conjunction with input from legal and, you know, various  
8 working team members, cross-functional.

9 Q. And can you -- I'm sorry.

10 And can you give me an example of who at  
11 finance provides you with that information?

12 A. Sure. Someone like [REDACTED], who's the  
13 director of finance.

14 Q. And what in-house counsel are involved with  
15 those projections?

16 A. So depending on the products we're talking  
17 about or the relevant subject matter, it likely would be  
18 someone like [REDACTED] who has, you know,  
19 knowledge of a specific area.

20 Q. And other than financial projections, what  
21 other business analyses do you provide as part of this  
22 role with respect to regulatory, investigation or  
23 litigation matters?

24 MS. ELMER: Object to the form and also  
25 object to the extent that your question seeks to invade

1 the attorney work product doctrine or the  
2 attorney/client privilege.

3 Q. (By Mr. Nakamura) I'll ask again,  
4 [REDACTED] Other than financial projections, what  
5 other business analyses do you provide as part of your  
6 role with respect to regulatory, investigative or  
7 litigation matters?

8 MS. ELMER: Same instruction.

9 We've been going for about an hour. Let's  
10 take a break.

11 MR. NAKAMURA: He needs to answer my  
12 question that is pending, and then we can take a break.  
13 I'm happy to do that.

14 MS. ELMER: I've instructed the witness  
15 not to answer the question.

16 Q. (By Mr. Nakamura) Will you follow Ms. Elmer's  
17 instruction not to answer?

18 A. Yes. I'll say this. I believe I answered this  
19 already. I think if you're asking for anything further,  
20 it would fall into privileged communications with  
21 counsel. And specifically what I said earlier was that  
22 I'm responsible for steering the organization through  
23 the changes in regulation.

24 Q. Okay. Thank you.

25 MR. NAKAMURA: Let's go off the record.

1 THE VIDEOGRAPHER: Going off the record at  
2 9:39 a.m.

3 (Recess taken)

4 THE VIDEOGRAPHER: Back on the record at  
5 9:54 a.m.

6 Q. (By Mr. Nakamura) Thank you for returning,

7 [REDACTED]

8 In your August 11th, 2021 deposition you  
9 told me about positions you held at Alphabet before your  
10 current position. Do you have anything to add to the  
11 testimony you provided on August 11th, 2021 regarding  
12 prior positions you have held at Google?

13 A. No.

14 Q. In your August 11th, 2021 deposition you told  
15 me about positions you held prior to joining Alphabet or  
16 Google, including jobs that you held at PayPal and other  
17 companies. Do you have anything to add to that  
18 testimony?

19 A. Beyond the questions you asked, no.

20 Q. Great. Are you still a board member and  
21 investor in the company [REDACTED]?

22 A. Yes.

23 Q. Is your ownership interest in the company still  
24 approximately [REDACTED]?

25 A. Yes.

1 Q. What work do you currently do for that company?

2 A. I'm a board member. That's it.

3 Q. Do you still work for the company [REDACTED]

4 [REDACTED]

5 A. Sort of. It's not really doing any business  
6 right now, and it's not a separate corporation. It's  
7 just a sole proprietorship. So, for example, if I refer  
8 a friend to a real estate broker, I might make money  
9 through that or something like that. But no, I don't do  
10 formal work.

11 Q. Okay. Thanks for that.

12 In your August 2021 deposition you told me  
13 about your educational background. Do you have anything  
14 to add to that testimony?

15 A. No.

16 Q. Great. Is your Alphabet work e-mail address  
17 still [REDACTED]google.com?

18 A. Yes.

19 Q. Do you have any other e-mail addresses?

20 A. No.

21 Q. Does anyone else use your work e-mail address?

22 A. No.

23 Q. Do you still use the e-mail address

24 [REDACTED]com?

25 A. Yes.



1 Q. Do you still use the e-mail address  
2 [REDACTED]gmail.com?

3 A. Yes.

4 Q. Do you still use the e-mail address  
5 [REDACTED]com?

6 A. Yes.

7 Q. Do you still use the e-mail address  
8 [REDACTED]com?

9 A. Yes.

10 Q. Do you still use the e-mail address  
11 [REDACTED]com?

12 A. Yes.

13 Q. Do you use any other e-mail addresses that I  
14 have not yet mentioned?

15 A. Yes, [REDACTED]com.

16 Q. Are there any others?

17 A. Nope.

18 Q. Have you ever used any of these non-Google  
19 e-mail addresses for Google or Alphabet business?

20 A. No.

21 MR. NAKAMURA: Seumas, could you please up  
22 load tab 8 into the Chat.

23 Q. (By Mr. Nakamura) [REDACTED] please let me  
24 know when you have this document in front of you.

25 MR. NAKAMURA: I'd like the court reporter

1 to please mark this as Alphabet Exhibit 3.

2 (Exhibit 3 marked)

3 A. Okay.

4 Q. (By Mr. Nakamura) This is a letter sent to the  
5 Division on October 28th, 2021 by your counsel,  
6 Ms. Elmer, regarding the civil investigative demand  
7 about which you are testifying today. Have you seen  
8 this letter before?

9 A. I don't know if I've seen this letter before,  
10 but I have just read it.

11 Q. So prior to today, your testimony is that you  
12 have not seen this letter before. Is that correct?

13 A. Yeah. I don't remember specifically reviewing  
14 this letter.

15 Q. Who prepared this letter?

16 A. It looks like Julie Elmer prepared it.

17 Q. Who at Alphabet assisted in the preparation of  
18 this letter?

19 A. Our legal team would be my guess.

20 Q. But you don't know?

21 A. I don't know, but I can say with -- I strongly  
22 believe that [REDACTED] and [REDACTED] together would have been  
23 responsible for communicating with Julie.

24 Q. And what are [REDACTED] and [REDACTED] last names?

25 A. I'm sorry. I'm not great with names. They're

1 on the call. Can I ask them to show their names?

2 Q. Sure. I can see them as well, which is why I  
3 asked you.

4 A. Yeah. Mainly I don't want to mess up their  
5 last names.

6 Q. But it's okay. We'll just -- the court  
7 reporter is taking them down.

8 So they are the two attorneys who are  
9 present today. Is that correct?

10 A. Yes.

11 Q. Thank you.

12 Did any nonlawyers at Alphabet assist in  
13 the preparation of this letter?

14 A. To my knowledge, no.

15 Q. Okay. On the first page of this letter  
16 Ms. Elmer wrote beginning in the middle of the first  
17 paragraph to this letter, "Please see the information in  
18 the file" -- I'm sorry. Let me start again.

19 "Please see the information in the  
20 appendix which sets forth the privilege log numbers of  
21 documents that the company has withheld for  
22 attorney/client privilege, work product protection  
23 and/or another cognizable privilege in response to Civil  
24 Investigative Demand No. 30471 and that contain the  
25 names of the projects identified in the CID schedule."

1 Did I read that correctly?

2 A. I believe so.

3 Q. In identifying the documents listed in the  
4 appendix to this letter, which are at pages 3 through 18  
5 of Exhibit 3, did Alphabet do a search only for  
6 documents that contain the exact names of the projects  
7 identified in the CID schedule?

8 A. Can I confer with counsel on this briefly?

9 Q. Sure.

10 MR. NAKAMURA: Let's go off the record.

11 THE VIDEOGRAPHER: Off the record at  
12 10:01 a.m.

13 (Recess taken)

14 THE VIDEOGRAPHER: Back on the record at  
15 10:04 a.m.

16 MS. ELMER: Yeah. So I object to your  
17 questions, Brent, as being outside the scope of the CID.  
18 The CID does not request how we manage our discovery  
19 process, how we manage responding to DOJ correspondence,  
20 how we do our privilege log. All of that invades our  
21 work product, the work product doctrine.

22 And the witness is not prepared to respond  
23 to questions about how Freshfields responds to DOJ's  
24 correspondence.

25 So I object to it as being outside the

1 scope. He can answer in his individual capacity to the  
2 extent that he knows.

3 MR. NAKAMURA: So what I'd like to  
4 understand, though, with respect to your scope objection  
5 is the subject line of this letter is "Civil  
6 Investigative Demand No. 30769." That is the  
7 established CID that [REDACTED] as Alphabet's  
8 representative, is sitting here testifying to.

9 I am surprised that a letter that came  
10 many months ago was not reviewed by him, and I am going  
11 to take testimony on Alphabet's corporate position. To  
12 the extent that he does not have an answer because he  
13 was not prepared, obviously that is the answer that I  
14 will get today.

15 But with that, I can resume questioning  
16 unless you have anything else to say, Ms. Elmer.

17 A. I'd also like to interject. So as I reviewed  
18 the rest of the document -- I apologize here --  
19 including the documents, and I have seen this list  
20 before. This was part of my preparation. And I  
21 apologize. The first page with a lot of legalese I did  
22 not recognize, but I have viewed this document and I  
23 have noted the many documents that were provided.

24 So I want to restate. I have seen this  
25 document. I have reviewed the articles in the piece. I

1 just did not recognize that front page. So I have seen  
2 this. But as -- and I'll defer back to Julie with  
3 respect to answering because "I don't know" is the  
4 answer to your question. I don't know what process  
5 Freshfields used.

6 Q. (By Mr. Nakamura) Thank you.

7 So as Alphabet's corporate designee  
8 sitting here today, is it Alphabet's representation this  
9 is a complete list of all documents withheld on the  
10 basis of attorney/client privilege, the work product  
11 protection and/or another cognizable privilege in  
12 response to Civil Investigative Demand No. 30471?

13 MS. ELMER: I object to your question as  
14 improper as it invades the attorney/client privilege.  
15 And, more importantly, it invades the work product  
16 doctrine. This is a letter that Freshfields wrote in  
17 response to you-all.

18 If you'll also note, the letter says that  
19 it is in reference to the CID, the document CID. [REDACTED]  
20 is not here to talk about how Freshfields put together a  
21 privilege log.

22 I instruct the witness not to answer this  
23 question.

24 Your questions are improper. And let's go  
25 on to the scope of the CID, or I will terminate the

1 deposition.

2 MR. NAKAMURA: That is your option, and I  
3 understand your position.

4 Q. (By Mr. Nakamura) [REDACTED] will you  
5 follow Ms. Elmer's instruction not to answer?

6 A. Yes.

7 Q. Thank you.

8 All right. One more question,  
9 [REDACTED] -- or a couple more questions I guess about  
10 this, about what you have reviewed. So you said that  
11 you have reviewed pages 3 through 18 to this Exhibit  
12 No. 3. Is that correct?

13 A. Can we put the document back up?

14 MR. NAKAMURA: Seumas, could you please  
15 put that back in the Chat.

16 A. I'm sorry. I still have it up separately. I  
17 think I'm okay.

18 Q. (By Mr. Nakamura) Thank you.

19 A. Yes. So I reviewed 3 through 18, yes.

20 Q. And did you review any of the documents listed  
21 here in preparation for this deposition?

22 A. Likely I reviewed the metadata of some of the  
23 documents listed here, although it would -- I wouldn't  
24 know it by the privilege log number. Specifically I  
25 would know it based on the documents being in my drive.

1 Q. And to be clear, did you use this list to  
2 refresh your recollection with respect to how the  
3 documents related to certain projects? For example, in  
4 the second or right-hand column, Project Banksy as  
5 related to the first document there, is that how you  
6 would have used this appendix?

7 MS. ELMER: Same objection and same  
8 instruction. You don't have to answer that question,  
9 [REDACTED] That invades the work product doctrine and  
10 attorney/client privilege.

11 Q. (By Mr. Nakamura) Are you going to follow that  
12 instruction?

13 A. Yes.

14 Q. And did you ever communicate to any lawyer  
15 about how you were using this list of documents on  
16 pages 3 through 8 of appendix -- I'm sorry -- of  
17 Exhibit 3?

18 MS. ELMER: Same objection. Assumes  
19 facts. I think you're misconstruing his testimony,  
20 Brent.

21 MR. NAKAMURA: I'll have the court  
22 reporter please read back the question.

23 (The record was read as requested.)

24 A. I feel like you're restating -- or you're  
25 making an assumption in that that I haven't spoken to.



1 My advice from counsel is that any  
2 communications here are privileged. So I'm not  
3 declining to answer your question. I'm saying I don't  
4 understand how you came up with your question because  
5 it's assuming things I didn't convey to you.

6 Q. (By Mr. Nakamura) Well, you've listened  
7 carefully, and that's very helpful.

8 Just so I'm clear and to help me out, how  
9 again did you use pages 3 through 18 of Exhibit 3 in  
10 preparation for this deposition?

11 MS. ELMER: Same objection. I don't think  
12 he testified that he used them. He testified that he's  
13 seen them before, and that's a big distinction.

14 Q. (By Mr. Nakamura) [REDACTED] how, if at  
15 all, did you use the information provided in pages 3  
16 through 18 of Exhibit 3 in preparation for this  
17 deposition?

18 A. I reviewed the list.

19 Q. And did you use the project names listed in the  
20 second column here, the right-hand column, of pages 3  
21 through 8 of Exhibit 3?

22 A. So I'm confused about that question. So yes,  
23 of course I used the names; but that doesn't have  
24 anything to do with this list.

25 Q. What do you mean by --

1 A. The names are the projects on the CID. How  
2 could I testify I didn't use the project names? So  
3 you're conflating using the names on the right side with  
4 me doing stuff. So I'm not -- I'm not clear what you're  
5 getting at here.

6 Yes, of course the names were used.

7 Q. Thank you.

8 A. But not related to this list.

9 Q. Okay. That's helpful. Thank you.

10 MR. NAKAMURA: Seumas, could you please  
11 put up tab 9, please.

12 Q. (By Mr. Nakamura) Okay, [REDACTED] Please  
13 let me know when you have that up.

14 A. Yes. I have this up.

15 MR. NAKAMURA: Could the court reporter  
16 please mark this as Alphabet Exhibit 4.

17 (Exhibit 4 marked)

18 Q (By Mr. Nakamura) This is a letter sent to the  
19 Division on November 15th, 2021 by your counsel,  
20 Ms. Elmer, regarding the civil investigative demand  
21 about which you are testifying today. Have you seen  
22 this letter before?

23 A. Yes.

24 Q. When did you see this letter?

25 A. As part of the preparation and -- earlier this

1 month.

2 Q. Did you see the entirety of this letter,  
3 including the first two pages as well as the appendix?

4 A. Yes.

5 Q. And who prepared this letter?

6 A. It says that Julie Elmer prepared this letter.

7 Q. What is Alphabet's position regarding who else  
8 prepared this letter?

9 MS. ELMER: And I'm going to instruct the  
10 witness not to answer. This is -- well, I'll say this.  
11 I object to the question as being beyond the scope. He  
12 may answer in his individual capacity. But the CID does  
13 not ask about Freshfields' preparation of letters, and  
14 the witness is not prepared to talk about the process  
15 that his outside counsel uses to prepare letters to the  
16 DOJ.

17 But you may answer to the extent you know  
18 in your individual capacity, [REDACTED]

19 A. Okay. I believe [REDACTED] would be involved.  
20 That's the extent of my full -- like I do not know for a  
21 fact, but I assume that she is involved.

22 Q. (By Mr. Nakamura) So just so I round this out,  
23 is it Alphabet's position today that you are not -- that  
24 Alphabet is not going to provide any testimony today  
25 regarding who prepared this letter. Is that correct?

1 A. Yeah. As suggested by counsel, yes.

2 MS. ELMER: Yeah. That's outside the  
3 scope, Brent. If you want to have a conversation with  
4 me later about this, I'm happy to do so.

5 MR. NAKAMURA: I appreciate that. I will  
6 likely take you up on your offer, Ms. Elmer. I  
7 appreciate that. But I want to make the record clear  
8 today, and I can move on.

9 Q. (By Mr. Nakamura) So, [REDACTED] did you in  
10 any way use the appendix to this letter listing  
11 documents in your preparation for today's deposition as  
12 Alphabet's corporate representative?

13 A. Aside from reviewing, no.

14 Q. And how did the -- how did you use the appendix  
15 to this letter in reviewing for today's deposition as  
16 Alphabet's corporate representative?

17 MS. ELMER: Objection, assumes facts and  
18 misconstrues testimony.

19 Q. (By Mr. Nakamura) I have received Julie's  
20 privilege objection. My question is how, if at all, did  
21 you use the appendix to this letter in reviewing for  
22 today's deposition as Alphabet's designated corporate  
23 representative?

24 MS. ELMER: Same objection. He's already  
25 testified that aside from reviewing it, he did not use

1 it.

2 Q. (By Mr. Nakamura) [REDACTED] I'd like an  
3 answer to my question about how, if at all, you used it.  
4 Let me just back up. I'll make it clearer.

5 When you say "reviewed," what do you mean  
6 by reviewed the documents listed in this letter?

7 A. I didn't say reviewed the documents listed. I  
8 said I reviewed the list.

9 Q. Uh-huh. And what did you -- how did reviewing  
10 the list help you in your preparation?

11 A. It merely made me aware of the documents that  
12 were noted here, and that's it. I did not use this  
13 further.

14 Q. All right.

15 MR. NAKAMURA: Seumas, could you please  
16 upload tab 6 into the Chat.

17 Q. (By Mr. Nakamura) [REDACTED] please let me  
18 know when you have that in front of you.

19 MR. NAKAMURA: I'd like the court reporter  
20 to mark this as Alphabet Exhibit 5.

21 (Exhibit 5 marked)

22 A. Okay.

23 Q. (By Mr. Nakamura) This is a letter sent to the  
24 Division on September 14th, 2021 by your counsel,  
25 Ms. Elmer, regarding the civil investigative demand

1 about which you are testifying today.

2 Have you seen this letter before?

3 A. Yes.

4 Q. And when have you seen this letter before?

5 A. In early February as part of the preparation  
6 process.

7 Q. And who at Alphabet prepared this letter?

8 MS. ELMER: Same objection. It's outside  
9 scope.

10 You may testify in your individual  
11 capacity, if you know, [REDACTED]

12 MR. NAKAMURA: I'm sorry. Hold on a sec.  
13 So, Ms. Elmer, I'd like to understand the basis for your  
14 outside-the-scope objection, given that this letter  
15 literally responds to specifications point by point to  
16 the CID to which [REDACTED] is sitting in response to  
17 today. Why is that out of scope?

18 MS. ELMER: Well, first of all, the DOJ  
19 has rejected these letters as being responsive to the  
20 CID and has insisted upon [REDACTED] testimony. A 30(b)(6)  
21 witness is the testimony of the company. That's why  
22 we're here today.

23 And your CID does not include a  
24 specification seeking testimony about outside counsel  
25 preparation of letters to the DOJ on any topic,

1 including the topic of this CID.

2           So if you insist on asking the witness  
3 questions about outside counsel's work, I will terminate  
4 the deposition and suggest that you move on to the  
5 specifications that are set forth in the CID.

6           MR. NAKAMURA: Okay. I understand your  
7 position.

8           Q. (By Mr. Nakamura) [REDACTED] is it  
9 Alphabet's position today that this letter does not  
10 represent the corporate position of Alphabet with  
11 respect to this civil investigative demand to which you  
12 are sitting here in response to today?

13          A. Yes. I am here to testify with the corporate  
14 position which supersedes this letter.

15          Q. Does anything in this letter represent the  
16 corporate position of Alphabet?

17          A. I believe if we discuss these line by line, you  
18 will find a lot of overlaps; and you may also find some  
19 discrepancies.

20          Q. So what in this letter represents the corporate  
21 position of Alphabet?

22          A. Okay. This is going to take a long time to  
23 walk through. Would you like to walk through that?

24          Q. Yes.

25          A. Okay. I think the easiest way to say this is

1 that we have updated this letter specifically with the  
2 communication on February 25th to correct a couple of  
3 pieces of information that likely outside counsel did  
4 not have full knowledge of.

5 So if you're asking which pieces of this,  
6 I think you'll find them specifically in the letter  
7 dated Feb 25.

8 Q. So I'm just trying to make this process  
9 simpler. I just want to understand, because in my  
10 reading of this letter, there's some pieces of  
11 information here that are not included in the  
12 February 25th letter, and I don't know whether that is  
13 by mistake or whether or not something supersedes  
14 something else. So that is why I'm asking you these  
15 questions.

16 So what in this letter is Alphabet's  
17 corporate position with respect to the specifications in  
18 the CID?

19 MS. ELMER: Objection, asked and answered.  
20 I'd like to take a break to discuss an issue of  
21 privilege.

22 MR. NAKAMURA: I'm sorry. Before you go  
23 off the record, are you intending to claw back part of  
24 this document?

25 MS. ELMER: No. The question has been



1 asked and answered. He's already answered your  
2 question, Brent.

3 [REDACTED] if you'd like to answer it again,  
4 please go ahead before we go off the record.

5 Q. (By Mr. Nakamura) Yeah. So the question  
6 pending is what in this letter is Alphabet's corporate  
7 position with respect to the specifications that you are  
8 here to testify about today in the CID?

9 MS. ELMER: Other than what he's already  
10 said about the February 25th letter? What more are you  
11 asking for, Brent?

12 Q. (By Mr. Nakamura) [REDACTED] if you'd like,  
13 we can just walk through this letter and you can tell me  
14 what is right, what is wrong, what is superseded and  
15 what is not.

16 MR. NAKAMURA: Seumas, could you upload  
17 into the Chat -- you know what, let's just do it this  
18 way.

19 Q. (By Mr. Nakamura) So, [REDACTED] please  
20 just keep this on your computer. I'll be referring back  
21 to it later. Okay?

22 A. Okay.

23 MR. NAKAMURA: Seumas, why don't you  
24 upload tab 7 into the Chat.

25 MS. ELMER: Okay. I asked for a break.

1 So let's take a break before we move on to the next  
2 document, please.

3 MR. NAKAMURA: All right. Let's take a  
4 break.

5 THE VIDEOGRAPHER: Off the record at  
6 10:22 a.m.

7 (Recess taken)

8 THE VIDEOGRAPHER: Back on the record at  
9 10:29 a.m.

10 MR. NAKAMURA: Thank you.

11 Q. (By Mr. Nakamura) [REDACTED] I'd just like  
12 to clear up one matter before we move on. I notice that  
13 you picked up your phone just before we went on the  
14 break. I just want to make sure to remind you that use  
15 of a phone or any other device is not permitted while  
16 you're on the record during this deposition. Do you  
17 understand that?

18 A. I don't recall picking up my phone.

19 Q. Okay. Perhaps I was just mistaken, but I just  
20 wanted to issue that reminder. That's totally my  
21 mistake.

22 A. I think that was my teacup.

23 Q. Okay. My mistake, I apologize.

24 MR. NAKAMURA: Seumas, could you upload  
25 tab 7 into the Chat.

1 Q. (By Mr. Nakamura) All right, [REDACTED]  
2 please let me know when you have that in front of you.

3 MR. NAKAMURA: Could the court reporter  
4 please mark this as Alphabet Exhibit 6.

5 (Exhibit 6 marked)

6 A. Okay. I have this document.

7 Q. (By Mr. Nakamura) This is a letter sent to the  
8 Division on October 24, 2021 by your counsel, Ms. Elmer,  
9 regarding the civil investigative demand about which you  
10 are testifying today. Have you seen this letter before?

11 A. Yes.

12 Q. When did you see this letter?

13 A. In preparation in early February.

14 Q. Approximately when in early February did you  
15 see this letter?

16 A. February 7th.

17 Q. And when did you first see the letter that was  
18 previously marked as Exhibit 5 that was sent on  
19 September 14, 2021? Was that also on February 7?

20 A. Yes.

21 Q. Who prepared this letter?

22 MS. ELMER: Same scope objection as  
23 before. We're not here to talk about how outside  
24 counsel prepares letters, particularly ones that have  
25 been rejected by the DOJ, as being acceptable responses

1 to CID No. 30769.

2 But if you know who prepared the letter,  
3 you may say so, [REDACTED] in your individual capacity.

4 A. I believe Julie Elmer prepared this letter.

5 Q. (By Mr. Nakamura) Did you or anyone else at  
6 Alphabet assist in the preparation of this letter?

7 MS. ELMER: Same objection, same scope  
8 objection, outside scope.

9 You may testify in your individual  
10 capacity if you know, [REDACTED]

11 A. I don't know.

12 Q. (By Mr. Nakamura) On page 1 of the letter  
13 Ms. Elmer wrote in the first full paragraph, "In  
14 response to your letter of September 17th, 2021 and  
15 based on further investigation, the company submits the  
16 following information in response to the Division's  
17 civil investigative demand for 30(b)(6) deposition  
18 testimony (CID) issued August 23, 2021."

19 Do you see that?

20 A. Yes.

21 Q. What further investigation did anyone at  
22 Alphabet do in preparing this letter?

23 MS. ELMER: I instruct the witness not to  
24 answer to the extent that it calls for -- or because it  
25 calls for work product.

1 Q. (By Mr. Nakamura) And will you follow  
2 Ms. Elmer's instruction not to answer?

3 A. Yes. I don't know how I can answer that  
4 without potentially violating privilege.

5 Q. Okay. Thank you.

6 MR. NAKAMURA: Seumas, could you upload  
7 tab 20, please, into the Chat.

8 Q. (By Mr. Nakamura) [REDACTED] please let me  
9 know when that is in front of you.

10 MR. NAKAMURA: Could the court reporter  
11 please mark this as Alphabet Exhibit 7.

12 (Exhibit 7 marked)

13 A. I have this in front of me.

14 Q. (By Mr. Nakamura) This is a letter that has  
15 been marked as Alphabet Exhibit 7 that was attached to  
16 an e-mail sent to the Division at 8:47 p.m. Eastern Time  
17 on Friday, February 25th, from your counsel, Ms. Elmer.

18 So, first of all, do you know why  
19 Ms. Elmer sent me this letter?

20 MS. ELMER: Object as calling for work  
21 product information. I instruct the witness not to  
22 answer.

23 Q. (By Mr. Nakamura) Are you going to follow  
24 Ms. Elmer's instruction?

25 A. Yes, with the exception if you actually read

1 the letter, it says this letter corrects counsel's  
2 letters. So I am willing to say that.

3 Other than that, I think privilege  
4 applies.

5 Q. And what errors were made that needed to be  
6 corrected in the counsel's letters of September 14th,  
7 2021 and October 4th, 2021?

8 MS. ELMER: Are you asking for -- I think,  
9 Brent, if you have a specific question that you can  
10 direct the witness to, I think that would be easier.  
11 You know, the scope of your CID does not include topics  
12 of how does outside counsel prepare letters. So this is  
13 something that he is not prepared to testify for in his  
14 capacity as a corporate designee. So I think you're  
15 going to need to point him to specific items in the  
16 letters and ask him specific questions.

17 MR. NAKAMURA: Thank you for that,  
18 Ms. Elmer.

19 Q. (By Mr. Nakamura) Let me just confirm one  
20 thing for you, [REDACTED] Ms. Elmer just told us  
21 that as to what errors were made that needed to be  
22 corrected in the counsel's letters of September 14th,  
23 2021 and October 4th, 2021, that you were not prepared  
24 as the corporate designee to testify to those topics.  
25 Do you agree with that?

1 MS. ELMER: Again, Brent, I object to the  
2 entire line of questioning as being improper because it  
3 is about outside counsel work product. This is not a  
4 topic that was listed in your CID.

5 And just because a letter has a "re" line  
6 that is referring to the CID doesn't mean that it  
7 relates to a specification set forth in the CID. We've  
8 had a lot of process disputes about this CID, and I am  
9 not going to allow the witness to answer questions about  
10 letters that are drafted by Freshfields, full stop.

11 Q. (By Mr. Nakamura) All right. And,  
12 [REDACTED] are you going to follow Ms. Elmer's  
13 instruction not to answer my question?

14 A. Yes. I think she's provided a fairly  
15 straightforward reason why.

16 Q. Okay. Did you provide any information to  
17 Alphabet's counsel that assisted in the preparation of  
18 this February 25th letter?

19 MS. ELMER: Same objection and same  
20 instruction.

21 Don't answer that, [REDACTED]

22 Q. (By Mr. Nakamura) Are you going to follow  
23 Ms. Elmer's instruction?

24 A. Yes. I believe that's privileged.

25 Q. Are you using this letter to assist you in

1 testifying today as the corporate designee, as  
2 Alphabet's corporate representative?

3 A. Yes. I'm using this as a portion.

4 Q. Have you had this letter in front of you during  
5 the entirety of this deposition so far?

6 A. Yes.

7 Q. And do you intend to use this letter to assist  
8 you with your testimony throughout the remainder of this  
9 deposition?

10 A. Yes.

11 Q. So I ask again. And if you would like to  
12 refuse to answer, that is your prerogative. But did you  
13 provide any information, whether written or oral, to  
14 Alphabet's counsel that assisted in any way in the  
15 preparation of this letter?

16 MS. ELMER: And, [REDACTED] I'll state this,  
17 that I object to the question to the extent that it  
18 invades the privilege. To the extent that you can  
19 answer the question without invading the privilege, you  
20 may answer.

21 A. I provided information to counsel.

22 Q. (By Mr. Nakamura) In what form?

23 A. Orally. And this -- I will say that the letter  
24 is consistent with Google's official position.

25 Q. So is it correct that the entirety of this



1 letter is representative of Alphabet's corporate  
2 testimony today?

3 MS. ELMER: Objection. The DOJ has  
4 already rejected letters as being responsive to the CID  
5 and has insisted on us putting a witness up live, which  
6 we are doing here today.

7 So I think you guys have already made  
8 clear that the -- this letter is not the complete  
9 representation of Alphabet's testimony; rather, the  
10 witness' testimony is Alphabet's testimony per the DOJ's  
11 own insistence over the last six months.

12 So I object to that question as assuming  
13 facts, being misleading, being argumentative and trying  
14 to confuse the witness. Why don't you re-ask your  
15 question and make it more clear, Brent.

16 Q. (By Mr. Nakamura) When you state that this  
17 letter reflects Google's official position, what parts  
18 of the letter reflect Google's official position?

19 A. So Google's position is consistent with  
20 everything that's contained in this Feb. 25 letter. And  
21 I am also here to ask any additional questions that you  
22 might have.

23 Q. Thank you.

24 Did you write any part of this letter?

25 MS. ELMER: I object as to scope; but,

1 [REDACTED] to the extent you can answer in your individual  
2 capacity and if you know, you may answer.

3 A. No.

4 Q. (By Mr. Nakamura) All righty. Let's move on,  
5 keeping this exhibit up to help us both. I'm sorry.  
6 Let me back up.

7 You have a hard copy of this letter in  
8 front of you. Is that correct?

9 A. Yes.

10 Q. I will now move on to ask you about Project  
11 Sunday, which is part of specifications 1a and  
12 specification 2.

13 Who chose the name "Project Sunday" for  
14 the project?

15 A. I don't know for certain, but I believe it was

16 [REDACTED]

17 Q. What is Project Sunday?

18 A. Project Sunday was an analysis to respond to  
19 potential regulatory action.

20 Q. And what was the goal of Project Sunday?

21 A. Without invading privileged information, it was  
22 to inform our leadership about our options.

23 Q. And what were Alphabet's objectives as part of  
24 Project Sunday?

25 MS. ELMER: And, [REDACTED] I advise you to be

1 cautious of invading the work product doctrine or the  
2 privilege. But to the extent that you can answer  
3 without doing so, you may.

4 A. Sure. You asked the objectives? Is that  
5 right?

6 Q. (By Mr. Nakamura) Yes. I'll just restate.  
7 What were Alphabet's objectives as part of  
8 Project Sunday?

9 MS. ELMER: Same instruction.

10 A. To understand the implications of our potential  
11 responses to regulatory actions.

12 Q. (By Mr. Nakamura) Were there any other  
13 objectives that Alphabet had as part of Project Sunday?

14 A. No.

15 Q. And do you say "no" because any other  
16 objectives are protected in Alphabet's view by privilege  
17 or because there were no other objectives?

18 A. There were no other objectives.

19 Q. And what are -- what in Alphabet's view were  
20 the business implications of Alphabet's potential  
21 responses to regulatory actions as a part of Project  
22 Sunday?

23 MS. ELMER: I object to that question as  
24 invading the work product doctrine and instruct the  
25 witness not to answer.

1 Q. (By Mr. Nakamura) Will you follow Ms. Elmer's  
2 instruction?

3 A. Yes.

4 Q. What outside counsel were involved with Project  
5 Sunday?

6 A. Outside counsel, for that, I'll need to look  
7 through the letter.

8 Q. And to be clear, if it helps you, I'm happy to  
9 just work through the letter. I just need your sworn  
10 testimony that what the letter says is or is not  
11 accurate.

12 So we can go piece by piece through that  
13 if that's a good starting point for you.

14 A. Yeah. I would appreciate that, and I'll  
15 reiterate that the letter is here to assist as well to  
16 make sure that we have as correct a set of facts as  
17 possible. So I'm happy to work through in conjunction  
18 with that.

19 Q. Okay. So on Exhibit 7, page 4 under the  
20 heading Project Sunday, let me know when you have that  
21 in front of you.

22 A. I do.

23 Q. Is this list on the second bullet point of  
24 outside counsel a full, complete and accurate list of  
25 all outside counsel who worked on Project Sunday?

1 A. Yes.

2 Q. Is the third bullet point a full and complete  
3 list of all Google in-house counsel who worked on  
4 Project Sunday?

5 A. Yes.

6 Q. Is the fourth bullet point a full and complete  
7 list of all Google employees who worked on Project  
8 Sunday?

9 A. Yes.

10 Q. What was the role of --

11 A. And can I just -- I want to make sure that  
12 we're clear about semantics here. When you say "worked  
13 on," there's a fairly large distinction between "worked  
14 on" and "was made aware of." So I don't want to convey  
15 that everyone on this list was an active working member  
16 of this project.

17 I would say that a subset of these people  
18 worked on it and a larger subset of this group were made  
19 aware of the information here.

20 Q. Okay. I appreciate that.

21 So on this fourth bullet point the first  
22 name is [REDACTED] What was that individual's  
23 responsibility and work performed as to Project Sunday?

24 A. So his responsibility was to designate his  
25 direct report, [REDACTED] to lead the corporate

1 development aspects of the project; and that was his  
2 entire responsibility.

3 Q. Thank you.

4 And what was [REDACTED] responsibility  
5 and what work did she do on Project Sunday?

6 A. I can't speak to the work she did because I  
7 think that would violate privilege, but her  
8 responsibility was a combination of project manager and  
9 representative in her corporate capacity.

10 Q. So let me get this refusal on the record. What  
11 work did [REDACTED] do for Project Sunday?

12 A. Yeah. I think you're asking me to tell you  
13 what we did in a project that was specifically directed  
14 by legal to do. So I don't understand how I could do  
15 that without violating the privilege of this project.

16 Q. If you refuse to answer my question, I  
17 understand that. Are you refusing to answer my question  
18 as to what work [REDACTED] did for Project Sunday?

19 A. Yes.

20 Q. What department does [REDACTED] work in at  
21 Google?

22 A. Corporate development.

23 Q. What was the work that [REDACTED] performed  
24 for Project Sunday?

25 A. He worked for [REDACTED] and provided analysis.

1 Q. And what department does [REDACTED] work in?

2 A. Corporate development. I'm sorry. Did you say  
3 what does he work in or what did he work in?

4 Q. At the time he worked on Project Sunday, what  
5 department did [REDACTED] work in?

6 A. Corporate development.

7 Q. And what work did [REDACTED] do for Project  
8 Sunday?

9 A. As stated, analysis.

10 Q. And what types of analysis did [REDACTED] do?

11 MS. ELMER: Object and instruct the  
12 witness not to answer to the extent it invades the work  
13 product doctrine.

14 Q. (By Mr. Nakamura) Will you follow that  
15 instruction?

16 A. Yes.

17 Q. Other than privileged information, can you  
18 describe any work [REDACTED] did on Project Sunday?

19 MS. ELMER: Objection, asked and answered.

20 Q. (By Mr. Nakamura) [REDACTED] other than  
21 privileged information, can you describe any work that  
22 [REDACTED] did on Project Sunday?

23 A. Nope.

24 Q. What work did [REDACTED] do on Project Sunday?

25 MS. ELMER: Same instruction, [REDACTED] To

1 the extent that answering would invade the work product  
2 doctrine, I instruct you not to answer.

3 A. Yes. The response is identical to what I gave  
4 you for [REDACTED]

5 Q. (By Mr. Nakamura) And what department does  
6 [REDACTED] work in -- worked in at Alphabet at the time  
7 of Project Sunday?

8 A. Corporate development.

9 Q. What work did [REDACTED] do for Project Sunday?

10 MS. ELMER: Same instruction.

11 A. She did no work on the project.

12 Q (By Mr. Nakamura) What were her  
13 responsibilities with respect to Project Sunday?

14 A. To designate me to complete portions of the  
15 project and to review the outcome.

16 Q. What did [REDACTED] do to review the outcome of  
17 Project Sunday?

18 A. She listened to a presentation.

19 Q. And did [REDACTED] make any decisions with  
20 respect to Project Sunday based on the information  
21 provided to her?

22 A. No, no decisions were made.

23 Q. And what were your responsibilities with  
24 respect to Project Sunday?

25 A. To provide analysis.



1 Q. What types of analysis were you to provide as  
2 part of your job responsibilities with respect to  
3 Project Sunday?

4 A. That would invade privilege.

5 Q. So are you refusing to answer my question about  
6 your job responsibilities on Project Sunday on the basis  
7 of privilege?

8 A. Yes, of course.

9 Q. What work did you do with respect to Project  
10 Sunday?

11 MS. ELMER: Instruct the witness not to  
12 answer to the extent that responding would invade the  
13 work product doctrine.

14 [REDACTED] if there is a way to respond that  
15 would not invade the work product doctrine or the  
16 privilege, you may do so.

17 A. I provided an analysis and I gave a  
18 presentation.

19 Q. (By Mr. Nakamura) When did you give this  
20 presentation?

21 A. October -- either September or October, in that  
22 time frame, of 2020.

23 Q. And to whom did you present?

24 A. To the list of Google employees included here.

25 Q. Did you present to any Google employees who are

1 not listed here?

2 A. No.

3 Q. What was the format of the presentation?

4 A. There was a slides document, and it was  
5 provided over a GVC videoconference.

6 Q. Did anyone else give that presentation other  
7 than you?

8 A. Portions, yes.

9 Q. And who were those other people who delivered  
10 portions of that presentation?

11 A. [REDACTED] and [REDACTED]

12 Q. Did anyone else present besides the people we  
13 have just mentioned?

14 A. No.

15 Q. Is there any other work that you did for  
16 Project Sunday other than the presentation given in  
17 September or October of 2020?

18 MS. ELMER: Same instruction.

19 THE WITNESS: What's the instruction?

20 MS. ELMER: Which is to the extent that  
21 you can answer without invading the work product  
22 doctrine or privilege, you may do so.

23 A. Sure. I believe the presentation was given --  
24 when [REDACTED] moved to a different role, I believe  
25 the presentation was given as a -- for awareness to her

1 successor, who was [REDACTED]

2 Q. (By Mr. Nakamura) Thank you. And  
3 approximately what was the date of that presentation?

4 A. Best guess, late April 2021.

5 Q. And what was [REDACTED] set of  
6 responsibilities with respect to Project Sunday?

7 A. Sure. He was responsible for providing  
8 analysis.

9 Q. What kind of analysis was he in charge of  
10 providing as part of Project Sunday?

11 A. Yeah. I can't answer that, you know, per  
12 privilege.

13 Q. So to be clear, you're refusing to answer my  
14 question on the basis of privilege. Is that correct?

15 A. Yes.

16 MS. ELMER: And the work product doctrine.

17 MR. NAKAMURA: Thank you. Obviously we  
18 can have that as a continuing objection to speed this  
19 along. That's fine with me.

20 MS. ELMER: All right. Great.

21 Q. (By Mr. Nakamura) What department does  
22 [REDACTED] work in at Google at the time of Project  
23 Sunday?

24 A. In the -- he's in the Ads division.

25 Q. I'm sorry. Could you explain more about what

1 you mean by the Ads division and what products he  
2 covers?

3 A. He was responsible for buy-side products, not  
4 including Google ads. So I believe he was in a  
5 division -- I'm sorry. The divisions have changed names  
6 over time, but he was responsible for DB360 and the  
7 product DCM, the campaign manager.

8 Q. DoubleClick Campaign Manager. Is that correct?

9 A. Yes.

10 Q. Thank you. And what work did [REDACTED] do  
11 for Project Sunday?

12 A. He was a recipient or a listener to the  
13 presentation.

14 Q. And by "the presentation," you mean the  
15 presentation given in September/October of 2020. Is  
16 that correct?

17 A. Yep.

18 Q. And what were [REDACTED] job  
19 responsibilities with respect to Project Sunday?

20 A. I can give you what his responsibilities were  
21 in general; but I think with respect to the project, I  
22 think that would invade privilege.

23 Q. Okay. And are you refusing to answer my  
24 questions specifically with respect to Project Sunday on  
25 the basis of privilege as to [REDACTED] job

1 responsibilities?

2 A. Yes.

3 Q. And what generally outside -- just generally at  
4 Alphabet were [REDACTED] job responsibilities at the  
5 time of Project Sunday?

6 A. So he worked for the CFO, and his job was to  
7 understand financial impact and provide guidance to the  
8 businesses.

9 Q. I'm sorry for interrupting you.

10 And when you say "the CFO," do you mean  
11 Ruth Porat?

12 A. Yes.

13 Q. Thank you.

14 What was [REDACTED] job  
15 responsibilities with respect to Project Sunday?

16 A. Yeah. He listened to the presentation.

17 Q. What work, if any, did [REDACTED] produce  
18 as part of Project Sunday?

19 A. Yeah. I think you're going to get a consistent  
20 answer. So I don't know if you want to keep asking  
21 every time.

22 Q. I must. So I'm just going to ask you. What  
23 work product did [REDACTED] produce as part of  
24 Project Sunday?

25 A. He didn't produce any work.

1 Q. Thank you.

2 And what were [REDACTED] job  
3 responsibilities at Alphabet at the time of Project  
4 Sunday?

5 A. He was a director of finance in Ads.

6 Q. What work did [REDACTED], do as part of  
7 Project Sunday?

8 A. She provided analysis.

9 Q. And what kinds of analysis did she provide?

10 MS. ELMER: I instruct the witness not to  
11 answer as it invades the work product doctrine and  
12 attorney/client privilege.

13 A. I can't answer that.

14 Q. (By Mr. Nakamura) Thank you.

15 And what job responsibilities did [REDACTED]  
16 have at the time of Project Sunday?

17 A. She was a --

18 Q. I apologize. With respect specifically to  
19 Project Sunday.

20 MS. ELMER: Wait. Please ask the question  
21 again, Brent. It got garbled.

22 MR. NAKAMURA: I appreciate that, Julie.

23 Q. (By Mr. Nakamura) So with respect specifically  
24 to Project Sunday, what were [REDACTED] job  
25 responsibilities?

1 MS. ELMER: Same instruction, [REDACTED]

2 A. Yeah. To provide analysis.

3 Q. (By Mr. Nakamura) And you are otherwise  
4 refusing to answer on the basis of privilege. Is that  
5 correct?

6 A. Yes.

7 Q. At the time of Project Sunday what were  
8 [REDACTED] job responsibilities at Google?

9 A. She was a finance manager.

10 Q. And to whom did she report?

11 A. To [REDACTED].

12 Q. What work did [REDACTED] do with  
13 respect to Project Sunday?

14 A. He listened to a presentation.

15 Q. And is that only the presentation in September  
16 or October of 2020?

17 A. Yes.

18 Q. What responsibilities did [REDACTED] have  
19 with respect to Project Sunday?

20 MS. ELMER: Same instruction. To the  
21 extent that you can answer without invading the  
22 privilege, you may.

23 A. Yeah. I can't answer.

24 Q. (By Mr. Nakamura) Was [REDACTED] a key  
25 decision-maker with respect to Project Sunday?

1 A. So you're asking a speculative question that  
2 assumes decisions would have been -- or decisions were  
3 made. So I guess I don't know how to answer your  
4 question.

5 Q. And to be clear, I asked because in a previous  
6 letter sent by Ms. Elmer, [REDACTED] was described as  
7 a key decision-maker. So I'm just seeking clarification  
8 as to whether or not that's correct. Obviously, if it's  
9 not correct and you've corrected it here in testimony,  
10 I'm fine with that.

11 My question is simply was [REDACTED] a  
12 key decision-maker with respect to Project Sunday?

13 A. No. I think that prior letter was incorrect.

14 Q. Okay. What work did [REDACTED] do with  
15 respect to Project Sunday?

16 A. He listened to the presentation.

17 Q. Did he do any other work with respect to  
18 Project Sunday?

19 A. No.

20 Q. What responsibilities did [REDACTED] have  
21 with respect to Project Sunday?

22 A. I can't answer that.

23 Q. And why not?

24 A. Privilege and work product.

25 Q. Okay. And did [REDACTED] attend both the



1 presentation in late April 2021 and the presentation in  
2 September or October of 2020?

3 A. I am -- I'm certain he attended the one in  
4 October. I don't know if he would have attended given  
5 it was materially the same presentation.

6 Q. Okay. What work did [REDACTED] do with  
7 respect to Project Sunday?

8 A. He listened to the presentation.

9 Q. Did he produce any other work with respect to  
10 Project Sunday?

11 A. No.

12 Q. What were [REDACTED] responsibilities with  
13 respect to Project Sunday?

14 A. I can't answer that.

15 Q. And why not?

16 A. Privilege.

17 Q. What were [REDACTED] responsibilities with  
18 respect to Project Sunday?

19 A. She listened to the presentation.

20 Q. Did she create any work product --

21 A. No.

22 Q. -- in response to Project Sunday?

23 A. Did she create any work product?

24 Q. Did she do any work? I apologize. Did she do  
25 any work other than just listening to the presentation

1 with respect to Project Sunday?

2 A. No.

3 Q. And, lastly, what did [REDACTED] do with respect  
4 to Project Sunday?

5 A. He listened to the presentation.

6 Q. Did he create any written work product or  
7 anything else for Project Sunday?

8 A. No.

9 Q. And what were [REDACTED] job responsibilities  
10 with respect to Project Sunday?

11 A. I can't answer that.

12 Q. Why not?

13 A. Privilege.

14 Q. Who initiated Project Sunday?

15 A. Ted Lazarus.

16 Q. Did anyone else initiate Project Sunday?

17 A. It likely -- or it may have been in conjunction  
18 with one or more of the senior management folks, as he  
19 would have spoken with them to advise on issues  
20 happening.

21 Q. What do you mean by "senior management folks"?  
22 Who are those individuals?

23 A. [REDACTED] or [REDACTED] or [REDACTED]

24 Q. And are any of those individuals lawyers?

25 A. Are you asking are they acting in the capacity

1 as a Google lawyer or are they --

2 Q. Yes. That is my question.

3 MS. ELMER: And which individuals are you  
4 referring to, Brent?

5 Q. (By Mr. Nakamura) Are [REDACTED]  
6 [REDACTED] or any of those senior  
7 management folks acting for Google as attorneys?

8 A. No.

9 Q. What event began Project Sunday?

10 A. I think it would be more consistent to say what  
11 events precipitated it, and it was a host of global  
12 regulatory action across privacy and antitrust.

13 Q. And did Mr. Walker begin Project Sunday by  
14 sending an e-mail, starting a discussion? What  
15 precipitated, what began Project Sunday in Alphabet's  
16 view?

17 A. I'm sorry. Did you say Mr. Walker?

18 Q. I'm sorry. Mr. Lazarus. I apologize. I'll  
19 ask again. I'm sorry. That's my fault.

20 Did Mr. Lazarus begin Project Sunday by  
21 sending an e-mail, starting a discussion or doing  
22 something else?

23 A. I believe he had a discussion, and I don't know  
24 if it was an e-mail or a discussion. But I believe he  
25 had a discussion with [REDACTED] to instruct him to

1 allocate a project lead. And then shortly thereafter I  
2 was instructed along with [REDACTED] in the finance  
3 group about our respective parts.

4 Q. And who was the project lead that [REDACTED]  
5 designated?

6 A. [REDACTED]

7 Q. So within Project Sunday then did you report to  
8 [REDACTED]

9 A. I'm not sure I understand that. I think you  
10 could have a project lead and then you work as a team  
11 with your relevant subject matter experts.

12 Q. And how would you describe the role of a  
13 project lead with respect to what [REDACTED] was doing  
14 for Project Sunday?

15 A. A coordinator.

16 Q. And a coordinator of what?

17 A. Just time frames, work product deliverables and  
18 presentations.

19 Q. When did Project Sunday end?

20 A. Ended approximately -- I mean, effectively the  
21 presentation was the final -- sort of the final like --  
22 work ended just at or before that final presentation.

23 Q. And by "that final presentation," do you mean  
24 the presentation you and others gave on September or  
25 October 2020?

1 A. Yes.

2 Q. So no work went on with respect to Project  
3 Sunday between October of 2020 and late April of 2021  
4 when a presentation was given at the point [REDACTED]  
5 transitioned jobs. Is that correct?

6 A. Yes.

7 Q. Has any work on Project Sunday gone on after  
8 April -- late April 2021?

9 A. No. No work has gone on.

10 Q. What was the cost to Alphabet associated with  
11 Project Sunday, whether specified in dollars or hours?

12 A. It's very hard to give a cost. It was an  
13 analysis. And so aside from outside counsel fees and  
14 some individual time from the project members that we  
15 discussed, there were no costs.

16 Q. And how much has Alphabet paid to outside  
17 counsel in fees with respect to Project Sunday?

18 A. That's also very difficult to pinpoint because  
19 we have counsel retained for a variety of issues, and a  
20 lot is going on there. So detangling what was for this  
21 versus what was for, you know, handling many other  
22 aspects of both litigation and ongoing compliance are --  
23 would be difficult.

24 So I guess that's the extent I can answer  
25 that.

1 Q. So sitting here today as Alphabet's designated  
2 corporate representative, do you have any reasonable  
3 estimate of the amount that Alphabet paid to outside  
4 counsel with respect to Project Sunday?

5 A. Can I confer briefly with counsel?

6 Q. Sure.

7 THE VIDEOGRAPHER: Off the record? Off  
8 the record at 11:09 a.m.

9 (Recess taken)

10 THE VIDEOGRAPHER: Back on the record at  
11 11:13 a.m.

12 MR. NAKAMURA: All right. Could the court  
13 reporter please read back the question.

14 (The record was read as requested.)

15 A. No, I don't for the reasons that I mentioned  
16 earlier around many projects ongoing and really the  
17 advice blurring between a number of different projects.

18 Q. (By Mr. Nakamura) Did you look at billing  
19 records from outside counsel to attempt to determine how  
20 much Alphabet spent with respect to Project Sunday?

21 A. I did not.

22 Q. Did you do any other work to attempt to  
23 determine whether Alphabet -- I'm sorry. Strike that.

24 Did you do any other work to attempt to  
25 determine the amount of money Alphabet spent on outside

1 counsel with respect to Project Sunday?

2 A. No, I did not.

3 Q. How many Alphabet employee hours have been  
4 spent on Project Sunday?

5 A. That's impossible to answer because we don't  
6 track time internally.

7 Q. Did you do anything to attempt to form a  
8 reasonable estimate of the amount of Alphabet employee  
9 hours that have been spent on Project Sunday?

10 A. That I could, you know, answer with full  
11 surety, no.

12 Q. My question is about a reasonable estimate.  
13 Did you do any work to attempt to form a reasonable  
14 estimate with respect to the number of Alphabet employee  
15 hours spent on Project Sunday?

16 A. So I could give a ballpark estimate, but that's  
17 about as good as we could do. If you find that  
18 informative, great; but it would be with the caveat that  
19 it is impossible to know the amount of time individuals  
20 spend on a specific project that's not part of a  
21 meeting.

22 Q. I appreciate your explanation. What is the  
23 ballpark estimate?

24 A. 30 hours.

25 Q. Okay. And how did you come to make that

1 assessment? What materials did you consider?

2 A. Calendar.

3 Q. Anything else?

4 A. General understanding of the final work  
5 product.

6 Q. Okay. Please name each governmental  
7 investigation or litigation that serves as a basis for  
8 Alphabet's work product privilege claims with respect to  
9 Project Sunday.

10 A. Sure. The U.K. ICO, the Irish DPA, U.S.  
11 Department of Justice, the Texas AG, the U.K. CMA and I  
12 believe the EC. Yes, the EC also.

13 Q. I apologize. I failed to do this because it  
14 was out of order. But if you wanted to turn to page 2  
15 of Exhibit 7, you have provided a list. I just want to  
16 make certain that that list is complete with respect to  
17 all litigations and government investigations that form  
18 the basis for Alphabet's privilege claims with respect  
19 to Project Sunday. Is that correct?

20 MS. ELMER: I will interject here to the  
21 extent that this list does not include the private  
22 litigation that is in the MDL, which is where the State  
23 of Texas' litigation is now pending.

24 But with that caveat, you may answer,  
25 [REDACTED]



1 A. I'll say this is materially all.

2 Q. (By Mr. Nakamura) Okay. And by "materially  
3 all," you mean everything listed on Exhibit 7, page 2 as  
4 well as, as Ms. Elmer noted, the MDL litigation that  
5 includes the State of Texas. Is that correct?

6 A. Sorry. Was your question what active  
7 investigations?

8 Q. No. My question is what investigations,  
9 litigation or regulatory matters was Project Sunday  
10 initiated in response to?

11 A. Okay. So I think you have to separate those  
12 out. You're asking for regulatory matters as well,  
13 which is an entirely different set.

14 So if you want to talk regulatory matters,  
15 I'll have to start including many countries or regions  
16 that have put into effect some -- either privacy or  
17 antitrust regulations. So that list is going to be much  
18 longer here.

19 But if you want to speak to the first two  
20 items, I can answer that this list materially provides  
21 answers for the first two.

22 Q. And to be clear, this list provides answers to  
23 what investigations or litigation were involved with --  
24 Alphabet believes were involved with the initiation of  
25 Project Sunday. Is that correct?

1 A. Yes, that's correct.

2 MS. ELMER: I'll note here that the  
3 list -- if you look at the letter itself, the list is  
4 talking about active government regulation or  
5 investigations. It is not talking about litigation.

6 So I don't want the record to be muddled  
7 here. Are you asking him about the list of government  
8 investigations that's in the letter, or are you also  
9 asking him about litigation that is the basis of the  
10 privilege?

11 And, by the way, the litigation that is  
12 the basis of the company's work product claims is not  
13 within scope. So if you could maybe un-compound your  
14 question, I think it would be helpful.

15 MR. NAKAMURA: That's fine.

16 Q. (By Mr. Nakamura) So what government  
17 investigations form the basis for Project Sunday?

18 A. Okay. So that, I can answer more precisely,  
19 and that is consistent with the list that you'll find on  
20 page 2.

21 Q. Thank you.

22 Are there any government investigations  
23 that are not included on the list on page 2 of Exhibit 7  
24 that Project Sunday was initiated in response to?

25 A. Are there any investigations?

1 Q. Yes.

2 A. Not that I'm aware of.

3 Q. What litigations was Project Sunday initiated  
4 in response to?

5 A. To get precise here, I need to speak with  
6 counsel for a minute.

7 Q. Sure.

8 MR. NAKAMURA: Let's go off the record.

9 THE WITNESS: Thanks.

10 THE VIDEOGRAPHER: Off the record,

11 11:21 a.m.

12 (Recess taken)

13 THE VIDEOGRAPHER: Back on the record,

14 11:30 a.m.

15 Q. (By Mr. Nakamura) [REDACTED] what  
16 litigations was Project Sunday initiated in response to?

17 A. So I don't think I have an answer specifically  
18 about what litigations. I think it was primarily on the  
19 investigations that we had just discussed, which is  
20 listed in No. 2.

21 And very specifically there, these were  
22 serious-enough investigations that we were very worried  
23 or very concerned that they would turn into litigation  
24 and protracted, you know, engagement with a number of  
25 these different authorities.

1           So that's -- at the time none of those  
2 were litigations, but that really was the basis for why  
3 we needed to start mapping out analyses.

4       Q.    So to be clear, as Alphabet's corporate  
5 designee, are you saying that there are no other -- or  
6 no litigations that Alphabet believes were part of the  
7 reason to initiate Project Sunday?

8           MS. ELMER: Object to the form of the  
9 question as garbled. Could you please rephrase it.

10       Q.   (By Mr. Nakamura) As Alphabet's corporate  
11 designee, is it correct that there are no litigations  
12 that Alphabet believes were part of the reason to  
13 initiate Project Sunday?

14           MS. ELMER: And I object to the extent  
15 that this question goes beyond the scope of the CID.

16           But, [REDACTED] you can answer in your  
17 individual capacity if you know.

18           MR. NAKAMURA: Actually, let me address  
19 Ms. Elmer's representation.

20           Alphabet has claimed privilege, both in  
21 its privilege logs as to attorney/client and work  
22 product privilege, over documents and testimony  
23 associated with Project Sunday. It is squarely within  
24 scope. And if he refuses to answer in his capacity as  
25 Alphabet's representative, that is fine; and I

1 understand your objection.

2 But I want to make clear that the  
3 Division's position is that these questions are squarely  
4 within scope. So with that, let me repeat the question.

5 Q (By Mr. Nakamura) [REDACTED] you can answer  
6 according to your counsel's instructions as you see fit.

7 As Alphabet's corporate designee, is it  
8 correct that there are no litigations that Alphabet  
9 believes were part of its reason to initiate Project  
10 Sunday?

11 MS. ELMER: And I have the same objection  
12 as to scope and to the extent that [REDACTED] is not  
13 an attorney, but he may answer individually if he knows.  
14 He's already provided an answer as the corporate  
15 designee that I think was very clear, and you are  
16 attempting to garble the record.

17 What do you mean by "any litigations"?  
18 What is that?

19 Q. (By Mr. Nakamura) [REDACTED] as Alphabet's  
20 corporate designee, are there any litigations that are  
21 not listed in Exhibit 7 that Alphabet believes were part  
22 of its reasons to initiate Project Sunday?

23 A. And are you talking about active litigations or  
24 anticipation of litigation?

25 Q. Either active or anticipated litigation.

1 A. Okay. Well, the anticipated I believe covers  
2 this list. And I'll say I don't know if there are other  
3 litigations, but this list that we've discussed here was  
4 serious enough on its own that any reasonably  
5 responsible corporation would undertake analysis to plan  
6 for the future.

7 Q. For each of the government investigations  
8 listed on page 2 of Exhibit 7, on what date did Alphabet  
9 anticipate litigation?

10 MS. ELMER: I object to this question as  
11 invading the attorney work product doctrine, the  
12 attorney/client privilege, and instruct the witness not  
13 to answer.

14 If you want to ask when the government  
15 investigations began, he's prepared to answer that.

16 MR. NAKAMURA: No.

17 Q. (By Mr. Nakamura) My question is -- and, of  
18 course, [REDACTED] should you choose to follow your  
19 counsel's instruction not to answer, that is your  
20 prerogative.

21 For each of the government investigations  
22 listed on page 2 of Exhibit 7, on what date did Alphabet  
23 anticipate litigation?

24 MS. ELMER: Okay. And same instruction to  
25 the witness.

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1 Let's take a break to discuss this. I'd  
2 like to take a break to discuss an issue of privilege,  
3 and then we can come back and respond to your question.

4 MR. NAKAMURA: Okay.

5 THE WITNESS: I'd ask for that as well.  
6 Thank you.

7 THE VIDEOGRAPHER: Off the record at  
8 11:35 a.m.

9 (Recess taken)

10 THE VIDEOGRAPHER: Back on the record at  
11 11:50 a.m.

12 MS. ELMER: So, Brent, I'd like to address  
13 your response to my scope objection. If you'd please  
14 point me to the spec in the CID that asks for a  
15 corporate designee to identify the litigation and the  
16 government investigations that were a reason to initiate  
17 Project Sunday, I'd like to see that.

18 MR. NAKAMURA: Sure. It's a very simple  
19 schedule, only two specifications here. Obviously,  
20 specification 1a and everything related and all of  
21 specification 2 have to deal with questions with respect  
22 to business reasons, as well as other conclusions,  
23 findings or recommendations made, reached or adopted by  
24 Google relating to internal projects with the code name  
25 Project Sunday. [REDACTED] has refused to respond to

1 many questions that are within that scope.

2 And to the extent that Alphabet is raising  
3 a privilege claim, I am entitled squarely within the  
4 scope of the notice to understand what the facts, not  
5 the law, the facts are with respect to what those claims  
6 are.

7 MS. ELMER: All right. Well, you're still  
8 unable to point to a specification that asks for a  
9 designee to testify about the litigation that was a  
10 reason to initiate Project Sunday. So I reiterate my  
11 scope objection that I made earlier.

12 Now, [REDACTED] has already provided  
13 testimony about the identities of the government  
14 authorities that were actively investigating the company  
15 before all of the projects at issue in the CID were  
16 undertaken.

17 And he's also testified that Exhibit 7,  
18 our letter of February 25th, is consistent with his  
19 testimony and the company's position about when those  
20 active government investigations began.

21 So I reiterate my scope objection; but to  
22 the extent that he can answer in his individual capacity  
23 without violating the work product doctrine or the  
24 privilege, he may.

25 Q. (By Mr. Nakamura) Okay. [REDACTED] I just



1 need to make sure that I get any refusals or nonanswers  
2 on the record. So I repeat --

3 MS. ELMER: That's not what I said.  
4 That's not what I said. I said "to the extent." So why  
5 don't you repeat your question.

6 MR. NAKAMURA: Sure. Let me be clear for  
7 the record. I just need to make sure that to the extent  
8 a question is not answered, I need to know the reason  
9 why and I need to know whether that refusal is made in  
10 Alphabet's corporate capacity or whether it's personal  
11 to [REDACTED]

12 Q (By Mr. Nakamura) So with that, my question is  
13 for each of the government investigations listed on  
14 page 2 of Exhibit 7, on what date did Alphabet  
15 anticipate litigation?

16 MS. ELMER: So same scope objection and  
17 instruction; but you may answer, [REDACTED] to the extent  
18 that you can in your individual capacity.

19 A. Sorry. I apologize. I need to speak with  
20 counsel for just one quick minute. I apologize.

21 MR. NAKAMURA: Let's go off the record.

22 THE VIDEOGRAPHER: Off the record at  
23 11:53 a.m.

24 (Recess taken)

25 THE VIDEOGRAPHER: Back on the record at

1 11:57 a.m.

2 MR. NAKAMURA: Thank you.

3 Q. (By Mr. Nakamura) My question, [REDACTED]  
4 is that for each of the government investigations listed  
5 on page 2 of Exhibit 7, on what date did Alphabet  
6 anticipate litigation?

7 MS. ELMER: And I object to that question  
8 as invading the attorney/client privilege and the  
9 attorney work product doctrine as it invades the opinion  
10 of counsel, in-house and outside counsel, also  
11 attorney/client communications. I also reiterate the  
12 same scope objection that I made earlier.

13 But to the extent that you can answer,  
14 [REDACTED] without invading the privilege, please do so.

15 A. So I provided the dates that are consistent  
16 with what's in the letter, which are primarily all in  
17 2019 with the exception of the ACCC. And that's when  
18 those investigations started. So as corporate  
19 representative, those are the dates that I provide as  
20 investigations starting.

21 I can answer in a personal capacity of  
22 when I believe -- when I believe we viewed these as  
23 anticipating litigation would have been, you know, by Q4  
24 of 2019, given the number and just the nature of the  
25 investigations and what we'd seen. So that's in my

1 personal capacity, I'll note that.

2 Q. (By Mr. Nakamura) And so in your personal  
3 capacity, when you say "Q4 of 2019," what dates does  
4 that cover in 2019?

5 A. I'm confused. Are you asking me to articulate  
6 what a quarter is?

7 Q. Yes. Do you mean September through December of  
8 2019 is when Google anticipated litigation, or do you  
9 mean something else?

10 A. I believe --

11 MS. ELMER: Object to the form to the  
12 extent it mischaracterized what a quarter is in a year.

13 A. I'm sorry. I just think this is a fairly  
14 straightforward question, so what am I missing here?

15 Q. (By Mr. Nakamura) On what precise date within  
16 Q4 of 2019 in your personal capacity did Alphabet  
17 anticipate litigation with respect to the investigations  
18 listed on page 2 of Exhibit 7?

19 MS. ELMER: Same objection. And I  
20 instruct the witness not to answer to the extent it  
21 invades the attorney/client privilege and the work  
22 product doctrine.

23 A. I'd say that it's -- yeah. I guess I'll answer  
24 this in two ways.

25 First off, if you're asking for when I

1 might have conferred with counsel or one of our senior  
2 lawyers had conferred with counsel and our business  
3 leaders about a determination, I think that's  
4 privileged. I think anyone would agree with that.

5           If you're asking for my personal view,  
6 there was a growing series of investigations that were  
7 taking place; and so the likelihood was continuing to  
8 increase up through and into the beginning of Q4,  
9 including with your own suit -- or your own  
10 investigation, I'm sorry. Let me be precise. I'm not a  
11 lawyer, so bear with me.

12           I think it's that combination that really  
13 made it appear that litigation would be, you know, very  
14 anticipated at that point.

15       Q.    (By Mr. Nakamura) Thank you for your personal  
16 testimony on that topic.

17           Just to close this out, sitting here today  
18 as Alphabet's corporate designee in response to the CID,  
19 does Alphabet have any testimony to offer with respect  
20 to the date on which it anticipated litigation with  
21 respect to the investigations listed on page 2 of  
22 Exhibit 7?

23       A.    I think we've mentioned the scoping argument  
24 there. You know, I have provided my personal view,  
25 given that it was not my understanding that this would

1 be covered.

2 Q. So you were not prepared as Alphabet's  
3 corporate designee sitting here today in response to the  
4 CID to offer any testimony with respect to the dates on  
5 which Alphabet anticipated litigation with respect to  
6 the investigations listed on page 2, Exhibit 7?

7 MS. ELMER: I reiterate the same scope  
8 objection and the same objection to the extent that this  
9 question is improper and invades the work product  
10 doctrine and the attorney/client privilege.

11 There is no CID specification asking for a  
12 witness to testify on this topic, Brent, and these are  
13 improper questions.

14 MR. NAKAMURA: So, Ms. Elmer, let me just  
15 ask you for the basis of your privilege claim. Are you  
16 saying that the dates on which Alphabet anticipated  
17 litigation are properly privileged subject to an  
18 instruction not to answer?

19 MS. ELMER: I am not saying that they're  
20 properly privileged. I'm saying that this witness is  
21 not a corporate designee on that topic because you in  
22 your CID did not put that topic down there. And if you  
23 had, you know, we would be having a different  
24 discussion; but you did not.

25 MR. NAKAMURA: We can disagree on the

1 scope of the notice. I believe this is plainly within  
2 scope. But if [REDACTED] wants to say as the designee  
3 that he does not have any prepared answer, that is fine.  
4 I just need him to say that, and we can move on.

5 MS. ELMER: This is outside the scope of  
6 the CID. This is outside the scope of the CID. We did  
7 not bring a witness here today to talk about the  
8 company's thought process, how their attorneys think.  
9 That is not why the witness is here today.

10 He is here to provide nonprivileged,  
11 nonwork product facts regarding six topics, six projects  
12 at issue in the CID; and you are way off the  
13 reservation.

14 MR. NAKAMURA: If you want to instruct  
15 your witness not to answer my question, that is fine.  
16 I'm just going to ask it one more time. If he has no  
17 answer, he has no answer; and I understand that. I  
18 understand your out-of-scope objection.

19 MS. ELMER: Repeat the question, and then  
20 we can move on.

21 Q. (By Mr. Nakamura) [REDACTED] you are not  
22 prepared as Alphabet's corporate designee sitting here  
23 today in response to the CID to offer any testimony with  
24 respect to the dates on which Alphabet anticipated  
25 litigation with respect to the investigations listed on

1 page 2, Exhibit 7?

2 A. I can offer -- as a corporate designee, I can  
3 offer that Project SingleClick, which was the first in  
4 the series of these projects, would never have been  
5 undertaken if we did not anticipate litigation. And  
6 that project started in December 2019.

7 But I can't answer your other question the  
8 specific way you phrased it because I think that -- in  
9 my opinion, that violates -- like you're asking me to  
10 tell you exactly my conversations with a lawyer or our  
11 internal conversations as a corporate with our counsel  
12 and our business leaders.

13 Q. To be clear, [REDACTED] I'm not asking you  
14 for what you told your lawyers or anything else like  
15 that. All I'm asking for is Alphabet's position on the  
16 dates on which it anticipated litigation in response to  
17 the investigations listed on page 2, Exhibit 7. What  
18 are those dates?

19 MS. ELMER: Brent, he just told you what  
20 the date was. He has answered your question.

21 A. I just don't understand how this would not be a  
22 privileged conversation. You're asking for our  
23 combination of our general manager and legal analysis to  
24 a regulatory situation. I just don't get what you're  
25 asking and how that would be fair.

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1 Q. (By Mr. Nakamura) Okay. So just to confirm,  
2 and, again, we can close this out and move on. I am  
3 simply asking, are you saying you are not going to give  
4 me a response because you believe that it would be  
5 privileged, [REDACTED]

6 A. I gave you a response.

7 MS. ELMER: He's already provided you a  
8 response, Brent. He answered your question. He said  
9 that SingleClick in December of 2019 would not have been  
10 undertaken had litigation not been anticipated. He's  
11 answered your question. Please stop badgering and  
12 harassing the witness.

13 MR. NAKAMURA: I am simply attempting to  
14 just close out this line of questioning. If he is not  
15 prepared today to testify on it, that is perfectly fine.  
16 I just have to know that.

17 If you think it's outside of the scope,  
18 you can instruct him not to answer. These are all  
19 simple solutions.

20 Q (By Mr. Nakamura) My question -- I'm just  
21 trying to close this out -- is, [REDACTED] on what  
22 dates did Alphabet anticipate litigation for each  
23 investigation listed on page 2 of Exhibit 7?

24 MS. ELMER: Same scope objection.

25 Q. (By Mr. Nakamura) If you do not have an



1 answer, that is okay.

2 MR. NAKAMURA: And I would caution counsel  
3 that objections are to be limited to protect the  
4 privilege, preserve a Fifth Amendment right or otherwise  
5 stated shortly and plainly. If nothing else, we can  
6 just move on.

7 MS. ELMER: I'll remind the questioner not  
8 to harass the witness. Same scope objection, asked and  
9 answered. And I instruct the witness not to answer to  
10 the extent that the answer would invade attorney/client  
11 privilege or the work product doctrine.

12 MR. NAKAMURA: To be clear, because  
13 [REDACTED] brought this up himself, is it your  
14 position, Ms. Elmer, today that the dates on which  
15 Alphabet anticipated litigation are privileged?

16 MS. ELMER: No. It is my position that  
17 this witness is not the corporate designee on that topic  
18 and that that particular question invades attorney work  
19 product, opinion work product.

20 The date on which counsel for a company  
21 decides that a government investigation is likely to  
22 lead to litigation is a matter of attorney opinion work  
23 product.

24 So no, I have not brought a witness here  
25 today to testify about opinion work product of

1 attorneys. So let's move on.

2 Q. (By Mr. Nakamura) [REDACTED] do you refuse  
3 to answer my question on the basis of your counsel's  
4 advice?

5 A. I feel like I've answered your question four  
6 times already. So no, I believe I did answer your  
7 question.

8 Q. [REDACTED] do you refuse to provide any  
9 additional information in response to my question based  
10 on your counsel's advice?

11 A. Yes.

12 Q. Thank you.

13 As part of Project Sunday, is Alphabet  
14 considering any divestitures?

15 MS. ELMER: I instruct the witness not to  
16 answer because the question invades the privilege and  
17 work product.

18 Q. (By Mr. Nakamura) Will you follow your  
19 counsel's instruction?

20 A. Yes.

21 Q. Prior to Project Sunday, since 2019, has  
22 Alphabet considered divesting any of its AdTech  
23 products?

24 MS. ELMER: Same instruction.

25 Q. (By Mr. Nakamura) I'm sorry. Outside of

1 Project Sunday, since 2019, has Alphabet considered  
2 divesting any of its AdTech products?

3 MS. ELMER: I instruct the witness not to  
4 answer to the extent that the question invades the  
5 privilege or attorney work product.

6 MR. NAKAMURA: I don't understand,  
7 Ms. Elmer, the basis for your privilege instruction,  
8 given that I said "outside of Project Sunday." Are you  
9 saying that everything outside of Project Sunday is  
10 privileged?

11 MS. ELMER: I think we're here about a lot  
12 of projects, Brent, today. So why don't you ask a  
13 better question.

14 Q. (By Mr. Nakamura) As part of any projects  
15 outside of Project Sunday, did Alphabet consider any  
16 divestitures of its AdTech products?

17 MS. ELMER: Same instruction.

18 MR. NAKAMURA: Is your privilege  
19 instruction, Ms. Elmer, based on the notion that the  
20 names of projects outside of Project Sunday are  
21 privileged?

22 MS. ELMER: It is not.

23 And we've been going for quite some time,  
24 and I think we've reached our lunch break time. So why  
25 don't we take a lunch break, and then we can come back.

1 MR. NAKAMURA: All right. Let's go off  
2 the record.

3 THE VIDEOGRAPHER: Going off the record at  
4 12:10 p.m.

5 (Luncheon recess)

6 THE VIDEOGRAPHER: Back on the record at  
7 12:52 p.m.

8 Q. (By Mr. Nakamura) All right. Thanks for  
9 returning, [REDACTED] I'm just going to finish off  
10 the question I had earlier.

11 As part of any projects outside of Project  
12 Sunday, did Alphabet consider any divestitures of its  
13 AdTech products?

14 MS. ELMER: Brent, do you mean the other  
15 projects listed in the CID, or do you mean any other  
16 projects at Google ever?

17 MR. NAKAMURA: Any other projects at  
18 Google ever since 2019.

19 MS. ELMER: All right. So I object to  
20 your question as being outside the scope of the CID, but  
21 [REDACTED] may answer in his personal capacity if he can to  
22 the extent that such an answer would not invade the  
23 privilege or work product.

24 A. So as the corporate designee relating to these  
25 projects --

1 MS. ELMER: Well, [REDACTED] I'm sorry to  
2 interrupt. I'm sorry to interrupt. But because this  
3 question is going beyond the scope of the CID, I'm  
4 instructing you to answer in your personal capacity  
5 here.

6 THE WITNESS: Oh, okay.

7 A. Then I would say I can't answer due to  
8 privilege.

9 Q. (By Mr. Nakamura) And is one of the -- and  
10 what are the names of projects for which Alphabet was  
11 considering divestitures of its AdTech products?

12 MS. ELMER: I instruct the witness not to  
13 answer the question because the question invades the  
14 attorney/client privilege and the work product doctrine.

15 Q. (By Mr. Nakamura) Will you follow your  
16 counsel's instruction?

17 A. Yeah. Are you actually asking me, like, about  
18 the privileged contents?

19 MS. ELMER: He is, and I instruct you not  
20 to answer.

21 MR. NAKAMURA: And that's fine.

22 Q. (By Mr. Nakamura) As part of -- I'm sorry.  
23 And are you going to follow your counsel's instruction  
24 not to answer?

25 A. Yeah.

1 Q. As part of Project Sunday, is Alphabet  
2 considering any changes to the way its AdTech products  
3 operate?

4 MS. ELMER: Same instruction.

5 Q. (By Mr. Nakamura) Are you going to follow your  
6 counsel's instruction?

7 A. Yes.

8 Q. Did Project Sunday incorporate any business  
9 analyses previously performed by Alphabet employees  
10 before Project Sunday began?

11 A. I'm sorry, can you repeat it?

12 Q. Sure. Did Project Sunday incorporate any  
13 business analyses performed by Alphabet employees before  
14 Project Sunday began?

15 A. So my understanding is there was an industry  
16 report that had been prepared in the general course of  
17 normal business separate from the project and that  
18 pieces of that, namely, facts, were taken and then  
19 incorporated into the project.

20 Yeah. That's for a portion of the  
21 project; and, yeah, that's the extent of my  
22 understanding there.

23 Q. And who performed that -- or who created that  
24 industry report that you just described?

25 A. And actually, I want to amend my last answer

1 after I answer this.

2 So Lazard, the investment bank, was on a  
3 general retainer for general industry trends. So they  
4 had provided that report as part of a separate sort of  
5 ongoing, what's going on in industry retainer. So they  
6 were unaware of its use in this project.

7 And again I'll say that that was a  
8 collection of facts that were then used. So that's  
9 that.

10 I want to say also there were pieces of  
11 analysis from other projects listed in the CID that  
12 were -- that were used and incorporated in Project  
13 Sunday.

14 Q. And what are the names of those projects whose  
15 pieces of analyses were included in Project Sunday?

16 A. SingleClick and Stonehenge.

17 Q. Okay. And other than work from Projects  
18 SingleClick, Stonehenge and Lazard's work as you  
19 previously described, was any other business analysis  
20 performed by an Alphabet employee incorporated into  
21 Project Sunday?

22 MS. ELMER: Object to the form as  
23 mischaracterizing testimony and assuming facts.

24 But you may answer.

25 A. I'm sorry. Can you repeat?

1 Q. (By Mr. Nakamura) Sure. And is there any  
2 other business analysis other than from Project  
3 SingleClick, Project Stonehenge and Lazard incorporated  
4 into Project Sunday --

5 MS. ELMER: Object to the form -- go  
6 ahead.

7 Q. (By Mr. Nakamura) -- that was undertaken prior  
8 to the beginning of Project Sunday?

9 MS. ELMER: Object to the form as  
10 mischaracterizing testimony, assuming facts and  
11 misleading.

12 But you may answer if you can.

13 A. I'm sorry. I'm still not --

14 Q. (By Mr. Nakamura) Other than what you've just  
15 listed, were there any other business analyses performed  
16 by Alphabet employees prior to the beginning of Project  
17 Sunday that were incorporated into Project Sunday?

18 MS. ELMER: Object to the  
19 mischaracterization of SingleClick and Stonehenge as  
20 business analyses. Also object to the  
21 mischaracterization of any work provided by Lazard as  
22 being the work of a Google employee.

23 Other than that, you may answer if you  
24 can, [REDACTED]

25 A. I'm not aware of any other prior work that had



1 been done that was contributed to Project Sunday.

2 Q. (By Mr. Nakamura) Okay. Thank you.

3 And what data sources did Alphabet  
4 employees rely upon for any financial analyses prepared  
5 for Project Sunday?

6 MS. ELMER: Object as invading the work  
7 product doctrine and the attorney/client privilege.

8 A. Okay. So I can't answer for those reasons.

9 MR. NAKAMURA: I'm sorry. To be clear,  
10 are you instructing [REDACTED] not to answer?

11 MS. ELMER: Yes.

12 Q. (By Mr. Nakamura) And will you follow your  
13 counsel's instruction?

14 A. Yes.

15 Q. So if you turn to Exhibit 7, page 4 at the  
16 bottom -- let me know if you need us to refresh that or  
17 if you have it up.

18 A. Is this the 225 -- oh, no, wait. That's  
19 No. 20.

20 Q. That's my internal tab number. That is  
21 Exhibit 7. So it is the February 25th letter.

22 A. Okay.

23 Q. Let me know when you have that up.

24 A. Page 4, yes. I have that up.

25 Q. So I just want to make sure that in the last

1 bullet point that spills over to the next page, does  
2 that accurately summarize Lazard's involvement in  
3 providing work that was used in Project Sunday?

4 A. Yes. And --

5 Q. I'm sorry. Go ahead.

6 A. To be very specific, work not for Project  
7 Sunday but work that was subsequently used in Project  
8 Sunday, yes.

9 Q. And who on Google's corporate development team  
10 interfaced with Lazard?

11 A. [REDACTED] He's the primary contact with  
12 Lazard.

13 Q. Did anyone else from Alphabet interact with  
14 Lazard with respect to the project as described on  
15 page 4 of Exhibit 7?

16 A. With respect to the general retainer agreement,  
17 I believe [REDACTED] likely interacts with them  
18 occasionally.

19 Q. And did Lazard make a presentation to any  
20 Alphabet employee with respect to the general overview  
21 of the AdTech industry as described at the top of page 5  
22 of Exhibit 7?

23 A. That, I don't know. At the very least they  
24 provided a document.

25 Q. Okay. I'll now turn to ask you about Project

1 Monday, which is part of specifications 1b,  
2 specification 2.

3 Who chose the name "Project Monday" for  
4 the project?

5 A. I did.

6 Q. And what was the subject matter of Project  
7 Monday?

8 MS. ELMER: I instruct the witness not to  
9 answer to the extent that it would invade the privilege;  
10 but, otherwise, you may answer.

11 A. Yeah. It was an analysis for a particular  
12 remedy to be undertaken due to the anticipated  
13 litigation.

14 Q. (By Mr. Nakamura) And what was the particular  
15 remedy to be undertaken?

16 MS. ELMER: Same instruction.

17 A. Yeah. That's privileged.

18 Q. (By Mr. Nakamura) So will you follow your  
19 counsel's instruction not to answer?

20 A. Yes.

21 Q. So turning to page 5 of Exhibit 7, is this a  
22 complete list in bullet point 2 of all outside counsel  
23 who worked on Project Monday?

24 A. Yes.

25 Q. And is this a complete list of all Google

1 in-house counsel who worked on Project Monday?

2 A. Yes, although, again, I want to distinguish  
3 between "worked on" and "made aware of."

4 Q. And what is that distinction?

5 A. In that I don't know if all of them were  
6 contributing to the document as much as possibly, you  
7 know, this would have been provided to them but they  
8 likely didn't do -- many of them likely didn't do work,  
9 quote unquote, work.

10 Q. Okay. And who initiated Project Monday?

11 A. I did.

12 Q. Did Mr. Schindler initiate Project Monday?

13 A. No. I think I just told you I did.

14 Q. And did anyone else initiate Project Monday?

15 A. No.

16 Q. What was -- what were your job responsibilities  
17 with respect to Project Monday?

18 A. To steward the business through regulatory --  
19 potential regulatory action.

20 Q. And what work did you do with respect to  
21 Project Monday?

22 MS. ELMER: And, [REDACTED] I instruct you not  
23 to answer to the extent that answering would invade the  
24 work product doctrine or privilege. But if there's a  
25 way that you can answer with not invading the privilege,

1 then you may do so.

2 THE WITNESS: Sure.

3 A. In conjunction with legal counsel, I authored a  
4 potential remedy.

5 Q. (By Mr. Nakamura) And which legal counsel did  
6 you author that in conjunction with?

7 A. Ted Lazarus and [REDACTED] and I believe  
8 possibly [REDACTED]

9 Q. I'm sorry. Could you spell that last name?

10 A. It's a first name, [REDACTED]

11 Q. Yes. Could you spell that for us, please.

12 A. [REDACTED].

13 Q. I see now. Okay. And is his last name

14 [REDACTED]

15 A. Yes.

16 Q. Okay. Thank you.

17 And that's listed at the last line of  
18 Google's in-house counsel included. Is that correct?

19 A. Yes.

20 Q. And when did you author that legal remedy?

21 A. So that was approximately -- it was early  
22 March 2021.

23 Q. And did you write that legal remedy down in a  
24 document?

25 A. Yes.

1 Q. What form did that document take?

2 A. A written docs, document.

3 Q. Did you make any presentations to anyone at  
4 Alphabet with respect to that legal remedy?

5 A. Yes.

6 Q. And when did you make that presentation?

7 A. In the April/May time frame.

8 Q. And I'm sorry. To be clear, do you mean  
9 April/May 2021?

10 A. Yes.

11 Q. And who was at the presentation in April or  
12 May 2021?

13 A. Scott Spencer, [REDACTED] Ted Lazarus,  
14 possibly [REDACTED] And that would have been it.

15 Q. And what was Mr. Lazarus' role in the  
16 presentation?

17 A. Audience and -- yeah, primarily audience, but  
18 also, you know, had provided legal advice.

19 Q. Did anyone else present the legal remedy that  
20 you authored in the April or May 2021 presentation?

21 A. I suspect that may have happened up the chain  
22 that I wasn't personally aware of. But yeah, I do  
23 believe that the contents of this were presented up to  
24 senior management without me.

25 Q. And who did the presentation of that legal

1 remedy after April or May 2021?

2 A. I believe [REDACTED] and/or [REDACTED]

3 Q. And who attended that presentation in senior  
4 management of the legal remedy that you had authored?

5 A. I believe it might have been [REDACTED]

6 [REDACTED] Those are the ones that I'm aware -- that  
7 I'm -- that I believe are likely.

8 Also, actually, now that I think about it  
9 as well, I believe in March some of this would have been  
10 presented as well to [REDACTED] and she may have  
11 presented it up further as well.

12 Q. And returning to this list, what was  
13 [REDACTED] job responsibility with respect to  
14 Project Monday?

15 A. Are you asking what work he performed or are  
16 you asking --

17 Q. What were his job responsibilities with respect  
18 to Project Monday?

19 A. I mean, primarily he was the audience.

20 Q. Did [REDACTED] make any decisions based on  
21 the presentation of Project Monday?

22 A. No decisions were made regarding Project  
23 Monday.

24 Q. I apologize. Did [REDACTED] do any work with  
25 respect to Project Monday?

1 A. No.

2 Q. What were [REDACTED] job responsibilities  
3 with respect to Project Monday?

4 A. As audience.

5 Q. And what do you mean by "as audience"?

6 A. Meaning it was presented to him -- I believe it  
7 was presented to him as a document.

8 Q. And did [REDACTED] make any decisions with  
9 respect to Project Monday?

10 A. No.

11 Q. What were Mr. Schindler's job responsibilities  
12 with respect to Project Monday?

13 A. I don't know if he was read in or not to  
14 Project Monday. So if he was, it would be the same  
15 answers I've just given for [REDACTED] and [REDACTED] If he  
16 wasn't read in, then he wasn't part of the project.

17 Q. In preparing for this deposition as Alphabet's  
18 corporate representative, what did you do to attempt to  
19 determine whether [REDACTED] was read in to Project  
20 Monday?

21 A. I think we checked to see if he was included on  
22 the document specifically, given there was no formal  
23 presentation of this as there was in Project Sunday.

24 So I believe his name was on the document,  
25 which means someone likely shared the document with him.



1 Q. But you did not as part of your preparation  
2 speak to or receive information about whether  
3 Mr. Schindler participated in Project Monday. Is that  
4 correct?

5 A. That is correct, yes.

6 Q. What was [REDACTED] job responsibility with  
7 respect to Project Monday?

8 A. This would be the same as I've said for  
9 [REDACTED] and [REDACTED]

10 Q. And what work did [REDACTED] do with respect to  
11 Project Monday?

12 A. It would be the same.

13 Q. I'm sorry. If you could complete your answer.  
14 This would be the same as?

15 A. As for [REDACTED] and [REDACTED]

16 Q. And what were [REDACTED] job responsibilities  
17 with respect to Project Monday?

18 A. The same.

19 Q. I'm sorry?

20 A. This is going to be the same for, like, just  
21 about everyone on this list. So do you want me to  
22 identify who the working team members were or identify  
23 who falls into this same bucket just for expediency?

24 Q. Sure.

25 A. Okay. So the following group all were just

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1 audience and had no other associated work. So [REDACTED]  
2 [REDACTED] Scott Spencer -- actually, no, let me separate  
3 that.

4 [REDACTED]  
[REDACTED]

[REDACTED] all had no involvement other than audience,  
7 [REDACTED] as well.

8 Then the working members of the team were  
9 Scott Spencer, [REDACTED] and me, along with  
10 counsel, of course.

11 Q. And which counsel were part of the working team  
12 for Project Monday?

13 A. Ted Lazarus primarily.

14 Q. Were any other of the listed Google in-house  
15 counsel part of the working team for Project Monday?

16 A. I believe [REDACTED] and [REDACTED] would have provided  
17 some amount of advice as well.

18 Q. Are there any other Google in-house -- I'm  
19 sorry.

20 A. And maybe [REDACTED].

21 Q. Are there any other Google in-house counsel  
22 that are not listed here who are part of the working  
23 team for Project Monday?

24 A. Actually, it's likely that [REDACTED] was involved  
25 in some initial document creation but not in the -- but

1 not in the further working team.

2 Q. And to be clear, that's [REDACTED] who is  
3 listed here?

4 A. Yes, that's right.

5 Q. And so let me just ask my question to round  
6 this out. Are there any other Google in-house counsel  
7 that are not listed here who were part of the working  
8 team for Project Monday?

9 A. No.

10 Q. And when did Project Monday begin?

11 A. Early March 2021.

12 Q. And what event began Project Monday?

13 A. The creation of a document.

14 Q. And what document do you mean when you say "the  
15 creation of a document"?

16 A. A document of a remedy. I don't want to say  
17 anything further for privilege.

18 Q. And that is, to be clear, the document that was  
19 presented in April or May of 2021. Is that correct?

20 A. Yes. I wouldn't say presented, but it was a  
21 document that was completed.

22 Q. When did Project Monday end?

23 A. May 2021.

24 Q. And how did Alphabet determine that Project  
25 Monday ended in May of 2021?

1 A. No further work was done on the project.

2 Q. Did someone at Alphabet make the decision to  
3 close or end Project Monday?

4 A. No. I don't think it was anything that  
5 definitive. I think basically I looked at what we had  
6 and decided enough analysis had been performed and put  
7 it on a shelf.

8 Q. Have any meetings with respect to Project  
9 Monday occurred since May of 2021?

10 A. No, though given this was an analysis, you  
11 know, the knowledge -- the knowledge persists, and we're  
12 still under, you know, the eight investigations  
13 mentioned here. So it's likely that the work product  
14 from that is factoring into our thinking. So I'll note  
15 that.

16 Q. Okay. At any time did anyone at Alphabet  
17 discuss Project Monday with an individual or entity not  
18 employed by Alphabet other than outside counsel?

19 A. No.

20 Q. Did any discussions of Project Monday occur  
21 with Lazard?

22 A. No.

23 Q. What was the cost associated -- I'm sorry.

24 What was the cost to Alphabet associated  
25 with Project Monday specified in dollars or hours?

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1 A. So I don't believe there's any dollars that I  
2 would note explicitly here that could be, like, easily  
3 disentangled. This was a smaller project, so I think  
4 the hours would be, you know, a small fraction of those  
5 that I had noted on Project Sunday.

6 Q. And sitting here today as Alphabet's corporate  
7 designee, what is your reasonable estimate as to the  
8 number of employee hours spent on Project Monday?

9 A. Ten.

10 Q. And that is across the company or just for you  
11 personally?

12 A. Across the company.

13 Q. And sitting here today as Alphabet's corporate  
14 designee, how much has Alphabet spent on outside counsel  
15 with respect to Project Monday?

16 A. This is hard to answer. I would say not a lot,  
17 but I don't know how to get into -- like even if I  
18 looked at timelines, I don't think that could be  
19 determined. So a small amount.

20 Q. Okay. And what, translated into dollars, if  
21 you have any reasonable estimate, does "a small amount"  
22 mean?

23 A. I don't know.

24 Q. Okay.

25 A. Yeah. I don't know.

1 Q. Did you do anything in preparation for this  
2 deposition to determine the amount that Alphabet spent  
3 on outside counsel with respect to Project Monday?

4 A. I did review calendar entries of attorneys that  
5 would have been present on the calls, and it was not  
6 easily discernible. And if I looked further in, I don't  
7 think I would have gotten to an answer. So I didn't  
8 spend time there because I don't believe it would have  
9 assisted.

10 Q. And what government investigations served as a  
11 basis for Alphabet initiating Project Monday?

12 A. This is going to be the same discussion we had  
13 for Sunday.

14 Q. And to be clear then, is the list of government  
15 investigations that caused Alphabet to initiate Project  
16 Sunday listed on page 2 of Exhibit 7?

17 A. Yes, that's correct, although I would say --  
18 yeah. In particular the first seven listed, the last  
19 one was, you know, less of an impact, but I would say  
20 the first seven had a -- were primary.

21 Q. And by "last one listed," you mean the  
22 Australian Competition and Consumer Commission. Is that  
23 correct?

24 A. Yes.

25 Q. Is there any litigation, whether anticipated or

1 actual, that the project was undertaken in response to?

2 A. Yes.

3 Q. What is that litigation?

4 A. The anticipated litigation are the first seven  
5 listed here.

6 Q. Is there any other litigation not listed here  
7 that Project Monday was undertaken in response to?

8 A. That were primary cause? I don't believe so.  
9 I think this is -- this is materially the list. There  
10 may have been some others that, you know, potentially  
11 could rise to that but not -- I don't believe they're  
12 primary. I think that's the question you're asking.

13 Q. No. My question is, is there any litigation,  
14 whether anticipated or actual, that Project Monday was  
15 undertaken in response to?

16 A. Is there any litigation or anticipated  
17 litigation?

18 Q. Either.

19 MS. ELMER: So other than the ones that  
20 he's already testified about that are listed in the  
21 letter?

22 MR. NAKAMURA: Yes. I'm just trying to  
23 determine whether this list is complete, and if not,  
24 what those litigations, whether actual or anticipated,  
25 are.

1 MS. ELMER: Object to the extent that it's  
2 already been asked and answered.

3 But you can answer again, [REDACTED]

4 A. Well, if you're asking other anticipated  
5 litigation like -- we're under a lot of scrutiny  
6 globally. So yeah, of course there are going to be  
7 other considerations. But to the extent they were  
8 materializing, this is the list I think at the time that  
9 we're -- where we had a -- you know, a belief in  
10 anticipated litigation.

11 If you're asking were there any other  
12 possibly that were -- yes, although I can't name them  
13 specifically.

14 Q. (By Mr. Nakamura) Okay. Were there any  
15 regulations that Alphabet initiated Project Monday in  
16 response to?

17 MS. ELMER: Object to the extent that it  
18 exceeds the scope of the CID.

19 But you may answer in your personal  
20 capacity, if you know, [REDACTED]

21 A. I think regulations are an aspect that have to  
22 be considered in all of this. I guess maybe if you can  
23 be precise in your question again, and I'll try to  
24 answer as best I can.

25 Q. (By Mr. Nakamura) What are the names of any



1 regulations that caused Alphabet to initiate Project  
2 Monday?

3 MS. ELMER: And so I object because this  
4 is a question that invades the attorney/client privilege  
5 and the work product doctrine, and I instruct the  
6 witness not to answer.

7 Q. (By Mr. Nakamura) Okay. Will you follow your  
8 counsel's instruction?

9 A. Yes.

10 Q. Were there any draft presentations prepared  
11 regarding Project Monday that were not finalized?

12 A. It's possible, yes.

13 Q. And how many --

14 A. Yeah. I think there were two or three  
15 documents, and my guess is -- I believe one of them was  
16 finalized and two of them were not.

17 Q. And who wrote the documents that were not  
18 finalized?

19 A. I wrote one of them, and our legal team had  
20 begun writing another of them and likely had -- I likely  
21 contributed to that one.

22 Q. And who on the legal team began writing the  
23 other non-finalized document?

24 A. I believe the doc was created by [REDACTED] and  
25 likely had authoring by Ted Lazarus and [REDACTED] -- some

1 contributions by [REDACTED] and [REDACTED]

2 Q. I'm sorry, two clarifications. Do you mean  
3 Alex Bergersen?

4 A. Yes.

5 Q. And what was the last name that you mentioned?

6 A. [REDACTED]

7 Q. That's [REDACTED] [REDACTED]

[REDACTED]. Is that correct?

9 A. That's correct.

10 Q. Thank you.

11 Did any Alphabet employee create a  
12 financial forecast as part of Project Monday?

13 A. I think that's privileged.

14 Q. I'll ask again. If your counsel wants to  
15 object, she can.

16 Did any Alphabet employee create a  
17 financial forecast as part of Project Monday?

18 A. It's still privileged. I think I answered it.

19 You're asking me what --

20 MS. ELMER: Yeah. Brent, our position  
21 here is that you guys are not entitled to know the  
22 substantive details of these work product and  
23 attorney/client privileged projects. We're here to  
24 provide, you know, a verbal privilege log, and that's  
25 what we're doing.

1 MR. NAKAMURA: Okay. So I'll ask the  
2 question again; if you want to instruct him not to  
3 answer, let's do that and we'll move forward.

4 Q. (By Mr. Nakamura) Did any Alphabet employee  
5 create a financial forecast as part of Project Monday?

6 A. How many times are you going to ask me?

7 Q. You need to answer my question unless your  
8 counsel specifically instructs you not to answer based  
9 on this; then we can just move on.

10 A. For the third time, that's privileged. I don't  
11 understand the disagreement here.

12 MS. ELMER: Yeah. Brent, if you want me  
13 to do a song and dance, okay. I instruct him not to  
14 answer to the extent that it seeks information protected  
15 by the work product doctrine and the attorney/client  
16 privilege.

17 Q. (By Mr. Nakamura) Okay. And, [REDACTED] do  
18 you have any information to provide me subject to your  
19 counsel's instruction regarding privilege?

20 MS. ELMER: And work product.

21 A. Again --

22 Q. (By Mr. Nakamura) No. My question,  
23 [REDACTED] is do you have any information to provide  
24 me subject to your counsel's instruction regarding any  
25 privilege?

1 MS. ELMER: Or work product.

2 A. Do I have anything to provide? No, I don't.

3 Q. (By Mr. Nakamura) Do you have information that  
4 you know but are refusing to provide on the basis of  
5 privilege?

6 MS. ELMER: That's ridiculous, Brent. I  
7 really instruct you to stop harassing the witness here.  
8 That's enough. He's answered your question. Let's move  
9 on to the other topics in the CID.

10 MR. NAKAMURA: Counsel, I need a  
11 refusal --

12 MS. ELMER: No. You don't need. You've  
13 already gotten year answer, Brent.

14 MR. NAKAMURA: So, Ms. Elmer, I think we  
15 both know that as a legal requirement I need to ask the  
16 question and he needs to refuse if he's going to refuse  
17 on the basis of a valid privilege, and that's fine.

18 We can move forward professionally and  
19 quickly through this, but procedure needs to be  
20 followed. And to the extent you would like to refuse to  
21 follow that procedure, that is your choice.

22 But we are where we are today and I'm  
23 going to keep asking. To the extent he refuses to  
24 answer for some other reason or is not responsive to my  
25 questions, we have other remedies, and that's fine.

1 Q. (By Mr. Nakamura) So my question is do you  
2 have information that you know but are refusing to  
3 provide on the basis of privilege?

4 A. I can't answer that for two reasons: one, due  
5 to privilege and, two, because I think this is  
6 obnoxious.

7 Q. My question is simply, [REDACTED] whether  
8 you have information that you're withholding on the  
9 basis of privilege, which is fine. I just need to know  
10 that that information exists.

11 A. I can't answer whether information exists or  
12 not because that would violate privilege.

13 MS. ELMER: What information -- what do  
14 you mean by "information," Brent? Maybe if you can ask  
15 a better question, we can get somewhere. Why don't you  
16 rephrase your question.

17 Q. (By Mr. Nakamura) [REDACTED] my question is  
18 did any Alphabet employee provide -- I'm sorry.

19 Did any Alphabet employee create a  
20 financial forecast as a part of Project Monday?

21 MS. ELMER: And so [REDACTED] has  
22 already declined to answer on the basis of the work  
23 product doctrine. What more do you need?

24 Q. (By Mr. Nakamura) Is that correct,  
25 [REDACTED]

1 A. Yes.

2 Q. Okay. As part of Project Monday, is Alphabet  
3 considering any divestitures?

4 MS. ELMER: And I instruct the witness not  
5 to answer the question to the extent that it seeks  
6 information that invades the attorney/client privilege  
7 and the work product doctrine.

8 Q. (By Mr. Nakamura) Will you answer my question,  
9 [REDACTED]

10 A. No.

11 Q. As part of Project Monday, did Alphabet  
12 consider divesting any of its AdTech products?

13 MS. ELMER: I have the same instruction.

14 Q. (By Mr. Nakamura) Will you answer my question,  
15 [REDACTED]

16 A. Nope.

17 Q. As part of Project Monday, is Alphabet  
18 considering any acquisitions?

19 MS. ELMER: Same instruction.

20 A. Decline to answer.

21 Q. (By Mr. Nakamura) On the basis of work product  
22 privilege. Is that correct?

23 A. Yes.

24 MS. ELMER: Right.

25 Q. (By Mr. Nakamura) As part of Project Monday,

1 is Alphabet considering any changes to the way its  
2 AdTech products operate?

3 MS. ELMER: Same objection -- or same  
4 instruction.

5 Q. (By Mr. Nakamura) Will you follow your  
6 counsel's instruction?

7 A. Yep.

8 Q. Did Project Monday incorporate any other  
9 financial analyses previously performed by Alphabet  
10 employees?

11 A. I think that it's not something that I can  
12 answer again for the same reasons.

13 MS. ELMER: Why don't we take a break to  
14 discuss -- a quick break to discuss an issue of  
15 privilege.

16 MR. NAKAMURA: Okay.

17 THE VIDEOGRAPHER: Off the record at  
18 1:32 p.m.

19 (Recess taken)

20 THE VIDEOGRAPHER: Back on the record at  
21 1:39 p.m.

22 Q. (By Mr. Nakamura) All right. Well, thank you  
23 for returning, [REDACTED]

24 I want to make clear for the record that  
25 the indications of attorney/client and work product

1 privileges are legal judgments. This is not a matter of  
2 mere process. I'm just trying to move this along  
3 efficiently. But it is a significant issue that counsel  
4 for the witness make the appropriate objections and,  
5 [REDACTED] you as the witness either accept your  
6 advice of counsel and refuse to answer the question on  
7 the basis of privilege or that you provide an answer to  
8 the question since this is a legal issue and we have  
9 confirmed through your testimony today and otherwise  
10 that you are not an attorney.

11               So with that, let me move on. What data  
12 sources did Alphabet employees rely upon for any  
13 financial analyses prepared for Project Monday?

14               MS. ELMER: And so, Brent, I object and  
15 instruct the witness not to answer as your question is  
16 seeking information regarding the contents of documents  
17 that have been properly withheld as work product. So I  
18 am instructing the witness not to answer the question on  
19 that basis.

20               In addition, I'm objecting to your  
21 question as assuming facts not in evidence and as  
22 misleading.

23               MR. NAKAMURA: Thank you.

24               Q. (By Mr. Nakamura) [REDACTED] will you  
25 follow your counsel's instruction not to answer?



1 A. Yes.

2 Q. What data sources did Alphabet employees rely  
3 upon for any divestiture analyses prepared for Project  
4 Monday?

5 MS. ELMER: Same instruction and same  
6 objection.

7 Q. (By Mr. Nakamura) And, [REDACTED] will you  
8 follow that instruction?

9 A. Yes.

10 Q. What data sources did Alphabet employees rely  
11 upon for any pricing analyses prepared for Project  
12 Monday?

13 MS. ELMER: Same instruction and same  
14 objection.

15 Q. (By Mr. Nakamura) [REDACTED] will you  
16 follow that instruction?

17 A. Yes.

18 Q. Are there any successor projects to Project  
19 Monday?

20 MS. ELMER: Object to your question as  
21 outside the scope of the CID and as invading the work  
22 product doctrine and the attorney/client privilege.

23 I instruct the witness not to answer the  
24 question.

25 Q. (By Mr. Nakamura) Will you follow that

1 instruction?

2 A. Yes.

3 Q. All right. I will now ask you about Project  
4 SingleClick, which is part of specifications 1d and  
5 specification 2. So if you'd turn to Exhibit 7, page 2.  
6 That's the file name that begins with 20 previously in  
7 front of you. Please, [REDACTED] let me know when  
8 you are there.

9 A. I am there.

10 Q. Who chose the name "Project SingleClick" for  
11 this project?

12 A. I believe it was [REDACTED].

13 Q. And what is the subject matter of Project  
14 SingleClick?

15 MS. ELMER: I instruct the witness not to  
16 answer to the extent that answering would invade the  
17 privilege or work product doctrine, but you may answer  
18 if you can do so without invading the privilege, [REDACTED]

19 A. Sure. It was an analysis of potential remedies  
20 to some anticipated regulatory actions.

21 Q. (By Mr. Nakamura) And was the project  
22 undertaken in anticipation of litigation concerning  
23 Google's AdTech business?

24 A. Yes.

25 Q. And what was the goal of Project SingleClick?

1 MS. ELMER: Same instruction. You may  
2 answer to the extent you would not waive the privilege  
3 or invade the work product doctrine.

4 A. To be properly prepared if regulatory actions  
5 occurred.

6 Q. (By Mr. Nakamura) What outside counsel were  
7 involved in Project SingleClick?

8 A. They're listed in the second bullet point  
9 here --

10 Q. Were any -- sorry.

11 A. -- on page 2.

12 Q. Thank you.

13 MS. ELMER: And we are referring to  
14 Exhibit No. 7. Is that right?

15 THE WITNESS: Yes.

16 Q. (By Mr. Nakamura) Thank you.

17 Were any outside counsel who worked on  
18 this project not listed here?

19 A. No.

20 Q. What Alphabet employees who are not lawyers  
21 worked on, approved or evaluated Project SingleClick?

22 A. Those are listed in bullet point 4 here on  
23 page 2 of Exhibit 7.

24 Q. Okay. And what was [REDACTED] role on Project  
25 SingleClick?

1 A. To provide initial scoping of the project.

2 Q. And did she have any other job responsibilities  
3 on Project SingleClick?

4 A. Yes. As a general manager, this falls within  
5 her business.

6 Q. And what business is that?

7 A. Running the ADVA division.

8 Q. And did [REDACTED] do any work with respect to  
9 Project SingleClick?

10 A. No.

11 Q. Who initiated Project SingleClick?

12 A. This was a combination of [REDACTED] and Ted  
13 Lazarus.

14 Q. And how was Project SingleClick initiated?

15 A. Through a verbal discussion.

16 Q. And which Alphabet employees were involved in  
17 that verbal discussion?

18 A. Ted Lazarus and [REDACTED] myself and [REDACTED]  
[REDACTED].

20 Q. [REDACTED] is listed under "Google employees  
21 included." Is that correct?

22 A. That's correct.

23 Q. What was [REDACTED] job responsibility with  
24 respect to Project SingleClick?

25 A. Contributor.

1 Q. And what contributions did [REDACTED] make?

2 A. That would violate privilege.

3 MS. ELMER: Yeah. So I'll give the  
4 instruction. To the extent that this question invades  
5 the work product doctrine or privilege, I instruct the  
6 witness not to answer. If there is a way to answer  
7 without invading either one of those, then you may do  
8 so.

9 A. He's an engineer. That's all I can answer.

10 Q. (By Mr. Nakamura) Okay. Thank you.

11 What was [REDACTED] job responsibility  
12 with respect to Project Monday -- I'm sorry, Project  
13 SingleClick? My apologies.

14 A. He's a contributor.

15 Q. What did his contributions involve?

16 MS. ELMER: Same instruction. But if  
17 there's a way to answer without invading the work  
18 product doctrine or the attorney/client privilege, you  
19 may do so.

20 A. He's a product manager.

21 Q. (By Mr. Nakamura) And when you say, "He's a  
22 product manager," what do you mean?

23 A. I mean his role at Google is as a product  
24 manager in the AdManager product.

25 Q. Thank you.

1 And what were your job responsibilities  
2 with respect to Project SingleClick?

3 MS. ELMER: Same instruction. If there's  
4 a way to answer without invading the privilege, you may  
5 do so.

6 A. My role is to provide high-level guidance.

7 Q. (By Mr. Nakamura) And is your role to provide  
8 high-level guidance -- I'm sorry. Strike that.

9 To whom was your role to provide  
10 high-level guidance?

11 A. To both the working team and to my leadership.

12 Q. And who was on the working team with respect to  
13 Project SingleClick?

14 A. This is everyone in bullet 4 except for [REDACTED]  
15 [REDACTED]

16 Q. And who was part of the leadership with respect  
17 to Project SingleClick?

18 A. [REDACTED]

19 Q. And what was [REDACTED] role with respect  
20 to Project SingleClick?

21 A. He's my engineering partner.

22 Q. What do you mean by "engineering partner"?

23 A. He's responsible for engineering for the same  
24 products I'm responsible for.

25 Q. And what was [REDACTED] job responsibility

1 with respect to Project SingleClick?

2 A. She is in charge of AdManager as a product  
3 manager.

4 Q. And at the time of Project SingleClick, did she  
5 report to you?

6 A. Yes.

7 Q. When did Project SingleClick begin?

8 A. December of 2019.

9 Q. And did Project SingleClick begin with the  
10 conversation between Mr. Lazarus, [REDACTED] and others  
11 that you referenced earlier?

12 A. Yes.

13 Q. And did Project SingleClick evolve into Project  
14 Stonehenge?

15 A. Yes.

16 Q. And how did Project SingleClick evolve into  
17 Project Stonehenge?

18 MS. ELMER: And, again, to the extent that  
19 answering would invade the privilege or work product  
20 doctrine, I instruct you not to answer. But if there's  
21 a way to answer without invading the privilege, please  
22 do so.

23 A. Stonehenge was further investigation and  
24 analysis into one of the areas that SingleClick had  
25 looked into.

1 Q. (By Mr. Nakamura) And what was the area  
2 SingleClick looked into?

3 MS. ELMER: I do instruct the witness not  
4 to answer because that is invading the privilege and the  
5 work product doctrine.

6 Q. (By Mr. Nakamura) Will you follow your  
7 counsel's instruction?

8 A. Yes.

9 Q. So is it Alphabet's position then that Project  
10 SingleClick ended in February 2020?

11 A. Yes.

12 Q. Are there any parts of Project SingleClick that  
13 are ongoing other than aspects that have been merged  
14 into Project Stonehenge?

15 MS. ELMER: So object to the form to the  
16 extent it's misleading or assumes facts.

17 But you may answer.

18 A. You know, the project was -- work on this  
19 project ceased in February. I'll say the same thing I  
20 said earlier, which is that the knowledge persists and,  
21 you know, finds its way into analysis as we work with  
22 these other investigations. But the specific work on  
23 this project ceased in February.

24 Q. (By Mr. Nakamura) Okay. In total how many  
25 meetings occurred at Alphabet for Project SingleClick?



1 A. Approximately 15 to 20.

2 Q. And how many of those 15 to 20 meetings were  
3 attended by inside or outside counsel for Google?

4 A. I would say nearly all of them.

5 Q. And what was Mr. Lazarus' role on Project  
6 SingleClick?

7 A. His was the primary legal oversight.

8 Q. And who else from Google's in-house attorney  
9 team provided legal oversight of Project SingleClick?

10 A. Oversight? [REDACTED] and [REDACTED]

11 Q. And by "[REDACTED]" you mean [REDACTED] as listed  
12 here?

13 A. Yes.

14 Q. Were any other in-house attorneys for Google  
15 involved in Project SingleClick?

16 A. Yes. On the working team specifically, [REDACTED]  
[REDACTED].

18 Q. Thank you.

19 At any time other than your attorneys,  
20 Alphabet's attorneys, did anyone at Alphabet discuss  
21 Project SingleClick with an individual or entity not  
22 employed by Alphabet?

23 A. Are you asking if there was outside counsel?

24 Q. No.

25 A. Are you asking others? No, no others outside

1 of outside counsel.

2 Q. Okay. I appreciate that. Thank you.

3 What was the cost to Alphabet associated  
4 with Project SingleClick specified in dollars or hours?

5 A. Again, hard to measure internally because we  
6 don't track that. And the outside pieces also are  
7 entangled in a number of other projects. So it's just  
8 very hard to give an estimate.

9 Q. And what other projects are the outside pieces  
10 entangled with?

11 MS. ELMER: And I instruct the witness not  
12 to answer because that invades the attorney/client  
13 privilege and the work product doctrine.

14 Q. (By Mr. Nakamura) Will you follow Ms. Elmer's  
15 instruction?

16 A. Yes.

17 Q. How many employee hours to a reasonable  
18 estimate as Alphabet's corporate designee were spent on  
19 Project SingleClick?

20 A. SingleClick, or are we on Stonehenge?

21 Q. SingleClick.

22 A. 45 hours.

23 Q. And to be clear, that 45-hour estimate is for  
24 all Alphabet employees. Is that correct?

25 A. Yes.

1 Q. Turning to Exhibit 7, page 2, is this a  
2 complete list of all government investigations that  
3 caused Google to begin Project SingleClick?

4 A. Your question is is this the list that  
5 caused --

6 Q. Yes. I'll restate.

7 Turning to Exhibit 7, page 2, is this a  
8 complete list of all government investigations that  
9 caused Google to begin Project SingleClick?

10 A. So, no. The ACCC had not started yet with the  
11 investigation. So I wouldn't include that one.

12 Then I would also say I don't know if  
13 there were others at the time that informed our -- the  
14 advice as we were speaking with legal, but I would say  
15 that these are the primary -- materially speaking, these  
16 are the ones that were top of mind.

17 So there may be others. You're asking if  
18 I knew of any others that might have, and I don't know  
19 because I don't know what was affecting our legal  
20 opinion.

21 Q. What did you do in preparation for this  
22 deposition to determine which government investigations  
23 caused Alphabet to initiate Project SingleClick?

24 A. I conferred with our legal team and reviewed  
25 this list of investigations.

1 Q. And sitting here today, you have nothing to add  
2 as Alphabet's corporate representative to the list of  
3 government investigations with the exception of the ACCC  
4 investigation that caused Alphabet to initiate Project  
5 SingleClick. Is that correct?

6 A. Yes. I think this is more than -- I think  
7 seven investigations are more than sufficient basis for  
8 us to have anticipated litigation.

9 Q. Is there any litigation, whether anticipated or  
10 actual litigation, that the project was initiated in  
11 response to?

12 MS. ELMER: Asked and answered.

13 A. I think that's the same question that I just  
14 answered.

15 Q. (By Mr. Nakamura) My initial question was  
16 about government investigations; and my question now is  
17 is there any litigation, whether anticipated or actual  
18 litigation, that Project SingleClick was initiated in  
19 response to?

20 MS. ELMER: And the reason for my  
21 objection, Brent, is because he has already testified  
22 that the active government investigations were  
23 anticipated litigation. I think maybe if you would  
24 break down your compound question, we might get  
25 somewhere.

1 Q. (By Mr. Nakamura) [REDACTED] are the  
2 government investigations listed here the basis for  
3 Alphabet's anticipated litigation that caused it to  
4 initiate Project SingleClick?

5 A. Yes.

6 Q. Other than the government investigations listed  
7 here, are there any litigations, whether actual or  
8 anticipated, that caused Project SingleClick -- that  
9 caused Alphabet to initiate Project SingleClick?

10 A. No.

11 Q. Were any presentations prepared regarding  
12 Project SingleClick?

13 A. Yes.

14 Q. How many presentations were prepared regarding  
15 Project SingleClick?

16 A. One presentation.

17 Q. Who authored that presentation?

18 A. It was a working team led primarily by [REDACTED]  
[REDACTED].

20 Q. And when did that presentation begin getting  
21 prepared?

22 A. Right away and, like most documents, evolved  
23 over the course of the project.

24 Q. By "right away," do you mean [REDACTED]  
25 began preparing the presentation in December of 2019?

156

1 A. It was either in like mid/late December or very  
2 early January, yes. Right in that time frame is when  
3 that was started.

4 Q. And who assisted in the drafting of that  
5 presentation?

6 A. So that would be the following people: [REDACTED]  
[REDACTED]  
[REDACTED]

9 Q. I'm sorry. Let me back up. I want to make  
10 sure we're talking about the same thing.

11 If you could turn to page 2 of Exhibit 7,  
12 I'm still asking about Project SingleClick.

13 A. Yep.

14 Q. Are you speaking now about a different project?

15 A. No.

16 Q. Okay. So that's my fault. I'll ask again.

17 Who assisted in drafting the presentation  
18 that [REDACTED] began drafting in December or January  
19 of either December '19 or January '20?

20 A. [REDACTED]  
[REDACTED].

22 Q. And to whom was that presentation given at  
23 Alphabet?

24 A. [REDACTED]

25 Q. And when was that presentation given to

1 [REDACTED]

2 A. The evolving presentation over the course of  
3 the project and the final one being in February 2020.

4 Q. Who attended that presentation in February of  
5 2020?

6 A. [REDACTED] me, [REDACTED] and then the rest  
7 of the Google employees listed here, and [REDACTED]

8 Q. Does that include all Google in-house counsel  
9 listed in the third bullet point under Project  
10 SingleClick on page 2 of Exhibit 7?

11 A. Very likely. There might have been one or two  
12 or three missing from that final presentation, but --

13 Q. Were any -- I'm sorry.

14 A. But the majority would have been there.

15 Q. Were any draft presentations prepared regarding  
16 Project SingleClick that were not finalized?

17 A. No.

18 Q. Did any Alphabet employee create a financial  
19 forecast as part of Project SingleClick?

20 MS. ELMER: And so are you asking, Brent,  
21 for the contents of the Project SingleClick documents?

22 MR. NAKAMURA: My initial question is  
23 simply whether any Alphabet employee created a financial  
24 forecast as part of Project SingleClick.

25 MS. ELMER: Sounds to me like your

1 question is getting at the substance of a work product  
2 project. So on that basis I'll instruct the witness not  
3 to answer.

4 Q. (By Mr. Nakamura) Will you follow Ms. Elmer's  
5 instruction?

6 A. Yes.

7 Q. Did Alphabet project, model or otherwise  
8 consider any cost savings as a part of Project  
9 SingleClick?

10 MS. ELMER: Same instruction.

11 Q. (By Mr. Nakamura) Will you follow Ms. Elmer's  
12 instruction?

13 A. Yes.

14 Q. Did Project SingleClick incorporate any other  
15 financial analyses created by Alphabet employees prior  
16 to Project SingleClick?

17 MS. ELMER: Same instruction.

18 Q. (By Mr. Nakamura) Will you follow Ms. Elmer's  
19 instruction?

20 A. Yes.

21 Q. What data sources did Alphabet employees rely  
22 upon for any financial analyses prepared for Project  
23 SingleClick?

24 MS. ELMER: Same instruction. And also  
25 object to the form as assuming facts not in evidence.



1 Q. (By Mr. Nakamura) Will you follow Ms. Elmer's  
2 instruction not to answer?

3 A. Yes.

4 Q. What data sources did Alphabet employees rely  
5 upon in preparing presentations for Project SingleClick?

6 MS. ELMER: Same instruction and object to  
7 the form as assuming facts not in evidence.

8 Q. (By Mr. Nakamura) Will you follow Ms. Elmer's  
9 instruction not to answer?

10 A. Yes.

11 Q. All righty.

12 MR. NAKAMURA: Let's go off the record  
13 briefly.

14 THE VIDEOGRAPHER: Off the record at  
15 2:05 p.m.

16 (Recess taken)

17 THE VIDEOGRAPHER: Back on the record at  
18 2:11 p.m.

19 Q. (By Mr. Nakamura) All right. Thanks for  
20 taking that break, [REDACTED]

21 I will now ask you about Project  
22 Stonehenge, which is part of specifications 1c and  
23 specification 2.

24 Who chose the name "Project Stonehenge"  
25 for the project?

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1 A. I think it was a few people on the original  
2 working team, the SingleClick, including [REDACTED]

3 Q. Okay. Turning to Exhibit 7, page 3. Let me  
4 know when you have that in front of you.

5 A. Okay.

6 Q. What was the subject matter of Project  
7 Stonehenge?

8 MS. ELMER: To the extent that the  
9 question invades the privilege of work product, I  
10 instruct the witness not to answer.

11 But, [REDACTED] if there's a way to answer  
12 without invading the privilege, please do so.

13 A. Yeah. Given the anticipated regulatory  
14 actions, we did an analysis of potential remedies.

15 Q. (By Mr. Nakamura) Okay. What was the goal of  
16 Project Stonehenge?

17 MS. ELMER: Same instruction.

18 A. To be prepared in case of any litigation.

19 Q. (By Mr. Nakamura) Okay. Was one of the  
20 objectives of Project Stonehenge to consider [REDACTED]

[REDACTED]?

22 MS. ELMER: I instruct the witness not to  
23 answer because the question invades the attorney/client  
24 privilege and the work product doctrine.

25 Q. (By Mr. Nakamura) Will you follow that

1 instruction, [REDACTED]

2 A. Yes.

3 MR. NAKAMURA: Seumas, could you please  
4 upload into the Chat tab 18.

5 I'd like the court reporter to mark this  
6 document as Alphabet Exhibit 8.

7 (Exhibit 8 marked)

8 Q. (By Mr. Nakamura) Please let me know when you  
9 have it in front of you, [REDACTED]

10 While you are doing that, I will let you  
11 know a couple things. No. 1, this is a document  
12 produced to us by Alphabet that was identified as  
13 related to Project Stonehenge and Project Banksy in  
14 Ms. Elmer's November 15, 2021 letter. It begins with  
15 Bates No. GOOG-DOJ-AT-00660900 and ends in Bates  
16 No. GOOG-DOJ-AT-00660904. It is a document that has  
17 been produced to us in redacted form.

18 Please let me know when you have finished  
19 reviewing the document, [REDACTED]

20 A. Okay. There's a lot here. So give me a  
21 minute.

22 Q. Sure.

23 MS. ELMER: Yeah. So we need to take a  
24 break to discuss an issue of privilege.

25 MR. NAKAMURA: All right. Let's go off

1 the record.

2 THE VIDEOGRAPHER: Off the record at

3 2:14 p.m.

4 (Recess taken)

5 THE VIDEOGRAPHER: Back on the record at

6 2:34 p.m.

7 Q. (By Mr. Nakamura) All right. [REDACTED] --

8 MS. ELMER: So before we get back started,  
9 we are going to claw back Exhibit No. 8. We will  
10 reproduce a redacted copy later in the deposition today.

11 MR. NAKAMURA: And how long until that  
12 redacted copy is produced to us?

13 MS. ELMER: I do not have a reasonable  
14 estimate at this time, but I promise you it will be  
15 before the deposition is over.

16 MR. NAKAMURA: Okay.

17 Q. (By Mr. Nakamura) [REDACTED] was one of the  
18 objectives of Project Banksy consideration of [REDACTED]

[REDACTED]?

20 MS. ELMER: I instruct the witness not to  
21 answer because this question invades the attorney/client  
22 privilege and work product doctrine.

23 Also, did you mean Project Banksy?

24 MR. NAKAMURA: I did.

25 MS. ELMER: Okay.

1 Q. (By Mr. Nakamura) [REDACTED] will you  
2 follow Ms. Elmer's instruction not to answer?

3 A. Yes.

4 MS. ELMER: And actually, I should clarify  
5 my instruction. Are you asking about Project Banksy,  
6 the remedies project, Brent, or are you asking about  
7 Banksy, the concept that was a feature that was  
8 discussed prior to the remedies project? In what  
9 context are you using that term?

10 MR. NAKAMURA: That is a good question,  
11 and it's hard to go out of order with Banksy, but since  
12 this document was listed in your November 15th letter as  
13 related to both, I will ask, but let me rephrase. I  
14 appreciate that.

15 Q. (By Mr. Nakamura) So was one of the objectives  
16 of Project Banksy, the product that is listed in the  
17 specification to the CID to which you are testifying  
18 today, was one of the objectives for that project  
19 consideration of [REDACTED]

20 MS. ELMER: All right. Same instruction,  
21 and I'm going to need to go off the record to discuss an  
22 issue of privilege.

23 MR. NAKAMURA: All right.

24 THE VIDEOGRAPHER: Off the record at  
25 2:36 p.m.

1 (Recess taken)

2 THE VIDEOGRAPHER: Back on the record at  
3 2:40 p.m.

4 MR. NAKAMURA: All right. Before we broke  
5 for that privilege consultation, my question was, so was  
6 one of the objectives of Project Banksy, the project  
7 that is listed in the specification to the CID for which  
8 [REDACTED] has appeared here today, was one of the  
9 objectives for that project consideration of [REDACTED]  
[REDACTED]?

11 MS. ELMER: And I instruct the witness not  
12 to answer because your question invades the work product  
13 doctrine and the attorney/client privilege.

14 Q. (By Mr. Nakamura) And will you follow  
15 Ms. Elmer's instruction, [REDACTED]

16 A. Yes.

17 Q. What did Alphabet consider in evaluating  
18 [REDACTED]?

19 MS. ELMER: Same instruction.

20 Q. (By Mr. Nakamura) And will you follow that  
21 instruction not to answer, [REDACTED]

22 A. Yes.

23 Q. What data sources did Alphabet use in  
24 considering [REDACTED]?

25 MS. ELMER: Same instruction.

1 Q. (By Mr. Nakamura) And will you follow the  
2 instruction not to answer, [REDACTED]

3 A. Yes.

4 Q. Who at Alphabet worked on the concept of  
5 [REDACTED]?

6 MS. ELMER: Same instruction and also as  
7 being outside the scope. Perhaps if you rephrase your  
8 question, we may get somewhere.

9 MR. NAKAMURA: I guess it's hard for me to  
10 understand why, Ms. Elmer, that question's outside the  
11 scope given that [REDACTED] appeared to be  
12 related to Project Stonehenge, but perhaps I have that  
13 wrong. If so, you can let your objection stand, and  
14 [REDACTED] can either tell me that or not. But it's  
15 hard for me to evaluate the scope of your objection  
16 without knowing more about it.

17 In any event, you can instruct him as  
18 appropriate. I will ask again.

19 Q (By Mr. Nakamura) Who at Alphabet worked on  
20 the concept of [REDACTED]?

21 MS. ELMER: I instruct the witness not to  
22 answer questions that invade the work product doctrine  
23 or would tend to reveal the substance of projects that  
24 are privileged and work product.

25 Q. (By Mr. Nakamura) Subject to that instruction,

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1 [REDACTED] what can you tell me about who at Alphabet  
2 worked on the concept of [REDACTED]?

3 MS. ELMER: Same instruction.

4 A. I follow my counsel's advice not to answer.

5 Q. (By Mr. Nakamura) Okay. Did Alphabet  
6 ultimately implement [REDACTED]?

7 MS. ELMER: Same instruction.

8 Q. (By Mr. Nakamura) And will you follow  
9 Ms. Elmer's instruction not to answer?

10 A. Yes.

11 Q. And the last question on this, what  
12 relationship, if any, does [REDACTED] have  
13 to Alphabet's pricing decisions?

14 MS. ELMER: Same instruction.

15 Q. (By Mr. Nakamura) And will you follow  
16 Ms. Elmer's instruction not to answer, [REDACTED]

17 A. Yes.

18 Q. All right. Let's move on.

19 In Alphabet's view, what does it mean for  
20 a product such as [REDACTED]  
[REDACTED]?

22 MS. ELMER: So I'd like to take a break to  
23 discuss an issue of privilege.

24 MR. NAKAMURA: Let's take a break. Off  
25 the record.



1 THE VIDEOGRAPHER: Off the record at  
2 2:43 p.m.

3 (Recess taken)

4 THE VIDEOGRAPHER: Back on the record at  
5 2:54 p.m.

6 Q. (By Mr. Nakamura) All right. Before we broke  
7 for the break, [REDACTED] I asked you, In Alphabet's  
8 view, what does it mean for a product such as [REDACTED]  
[REDACTED]

10 MS. ELMER: And to the extent that your  
11 question calls for testimony regarding any work product  
12 projects or privileged projects, I instruct the witness  
13 not to answer because the answer would invade the  
14 attorney/client privilege or the work product doctrine.

15 To the extent that your question goes  
16 beyond the scope of the six projects set forth in the  
17 CID, I instruct -- the witness is not here as corporate  
18 designee on any topics that go beyond those, but he may  
19 answer in his individual capacity if he can answer in a  
20 way that would not invade the privilege or work product.

21 A. Okay. Then I'll speak to the -- to what the  
22 document is referring to in an individual capacity and  
23 not as a -- I'm sorry, [REDACTED].

24 MS. ELMER: All right. Just so we're  
25 clear here, there is no exhibit that is on the record or



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1 [REDACTED].

2 Q. (By Mr. Nakamura) Okay. Thank you for that.

3 [REDACTED]

[REDACTED]

[REDACTED]?

6 MS. ELMER: So I give the same  
7 admonishment, [REDACTED] and you'll be testifying in your  
8 individual capacity because this goes beyond the scope  
9 of the CID.

10 THE WITNESS: Sure.

11 A. You said [REDACTED], and what was the  
12 third?

13 Q. (By Mr. Nakamura) Sure. I'll repeat.

14 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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4 Q. Thank you for that.

5 And in Alphabet's view, what does it mean  
6 for a product such as [REDACTED]  
[REDACTED]

8 MS. ELMER: So I give the same  
9 admonishment. The witness is not testifying in  
10 Alphabet's view but in his personal capacity, as this  
11 question is beyond the scope of the CID.

12 A. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

19 Q. (By Mr. Nakamura) Thank you for that.

20 [REDACTED]  
[REDACTED]  
[REDACTED]

23 MS. ELMER: Same objection and  
24 instruction. The witness is not testifying about  
25 Alphabet's view because your question goes beyond the

1 scope of the CID, but he may testify in his personal  
2 capacity.

3 A. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12 Q. (By Mr. Nakamura) Okay. Thank you for that.

13 MR. NAKAMURA: Seumas, could you upload  
14 into the Chat, please, tab 15.

15 Could the court reporter mark this as  
16 Exhibit 9.

17 (Exhibit 9 marked)

18 Q. (By Mr. Nakamura) [REDACTED] please let me  
19 know when you have that in front of you.

20 While that is happening, let me read this  
21 into the record. This is a document produced by  
22 Alphabet beginning in Bates No. GOOG-DOJ-AT-00205841  
23 ending in Bates No. 5843. The subject is regarding

24 [REDACTED]

25 This document is part of an e-mail thread.

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1 It's the top e-mail in a thread that contained an e-mail  
2 that was identified in Ms. Elmer's November 15th, 2021  
3 letter as related to Project Stonehenge.

4 MS. ELMER: Again, we're going to need to  
5 break to discuss an issue of privilege.

6 MR. NAKAMURA: Sounds good. Let's go off  
7 the record.

8 THE VIDEOGRAPHER: Off the record at  
9 3:02 p.m.

10 (Recess taken)

11 THE VIDEOGRAPHER: Back on the record at  
12 3:13 p.m.

13 MS. ELMER: All right. I can hear  
14 somebody's --

15 MR. NAKAMURA: Hold on. Let's go back off  
16 the record.

17 THE VIDEOGRAPHER: Off the record at  
18 3:13 p.m.

19 (Recess taken)

20 THE VIDEOGRAPHER: Back on the record at  
21 3:14 p.m.

22 MS. ELMER: All right, Brent, we are  
23 clawing back Exhibit 9. We will do the same thing as  
24 for Exhibit 8. We will be providing an updated redacted  
25 version of this document before the end of the day

1 today.

2 MR. NAKAMURA: Okay. Absolutely you may  
3 claw that back.

4 I will just make one note for the record  
5 that I had planned on introducing this document so as to  
6 establish that my questions with respect to the

7 [REDACTED]

8 [REDACTED] were within the scope of  
9 the CID notice. But with that, we can just move on.

10 MS. ELMER: I still maintain my scope  
11 objection that to the extent that those features are not  
12 related to a privileged project and relate to some other  
13 context, that those features do fall outside the scope  
14 of the deposition notice.

15 MR. NAKAMURA: All right. Thank you.

16 Q. (By Mr. Nakamura) [REDACTED] what is  
17 [REDACTED]?

18 MS. ELMER: Again, same admonishment.  
19 This question goes outside the scope of the CID notice,  
20 and so the witness will be testifying in his personal  
21 capacity and not in his capacity as corporate designee.

22 Q. (By Mr. Nakamura) All right, [REDACTED]  
23 [REDACTED]?

24 A. [REDACTED]  
[REDACTED]

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9

Q. Thank you.

10

?

13

MS. ELMER: Same admonishment.

14

[REDACTED] is providing this testimony in his personal

15

capacity, as this question goes beyond the scope of the

16

CID.

17

A. Sure. [REDACTED]

22

Q. (By Mr. Nakamura) [REDACTED]

25

MS. ELMER: Same admonishment, same



1 objection as beyond the scope. [REDACTED] is  
2 providing this testimony in his personal capacity as the  
3 question goes beyond the scope of the CID.

4 A. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

10 Q. (By Mr. Nakamura) My question, [REDACTED]  
11 [REDACTED]  
[REDACTED]  
[REDACTED]

14 MS. ELMER: Same admonishment, same scope  
15 objection. [REDACTED] is providing this testimony in  
16 his personal capacity. I believe that this question has  
17 already been asked and answered, and I object to it as  
18 vague and ambiguous and misleading.

19 But you may answer in your personal  
20 capacity if you can, [REDACTED]

21 A. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

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4

Q. (By Mr. Nakamura) Okay.

7

MS. ELMER: Same admonishment and scope

8

objection.

9

But you may answer.

10

A. Yes.

11

Q. (By Mr. Nakamura)

14

MS. ELMER: Same scope objection.

15

A.

20

Q. (By Mr. Nakamura) Thank you.

21

23

MS. ELMER: Same scope objection.

24

will be testifying in his personal capacity as the

25

question goes beyond the scope of the CID.

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A. [REDACTED]

8

Q. (By Mr. Nakamura) Okay. [REDACTED]

11

MS. ELMER: The same scope objection.

12

This testimony will be in personal capacity, as this

13

question goes beyond the scope of the CID.

14

A. [REDACTED]

17

Q. (By Mr. Nakamura) [REDACTED]

20

MS. ELMER: Object to form, also same

21

scope objection. This testimony will be a personal

22

capacity testimony, as the question goes beyond the

23

scope of the CID.

24

A. [REDACTED]

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1

[REDACTED]

12

Q. (By Mr. Nakamura)

[REDACTED]

14

A.

[REDACTED]

15

MS. ELMER: Same scope objection. I'm

16

sorry.

17

Go ahead.

18

THE WITNESS: Yep. I'm sorry.

19

A.

[REDACTED]

[REDACTED]

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6

Q. (By Mr. Nakamura)

8

MS. ELMER: Same scope objection.

9

A.

17

Q. (By Mr. Nakamura) Okay. Thank you for that.

18

19

20

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23

24

MR. NAKAMURA: I will just note for the record that it is my view that had I been allowed to question [REDACTED] as Alphabet's representative on the document that was just clawed back, I would have had more questions; but that's just for the record.

Q. (By Mr. Nakamura) So a new line of questioning. Did Alphabet consider [REDACTED]

1 [REDACTED] as part of Project Stonehenge?

2 MS. ELMER: And I instruct the witness not  
3 to answer the question because the question invades the  
4 work product doctrine and the attorney/client privilege.

5 Q. (By Mr. Nakamura) Will you follow that  
6 instruction, [REDACTED]

7 A. Yes.

8 MR. NAKAMURA: So, Ms. Elmer, it is the  
9 Division's position that Google has waived privilege  
10 over this particular line of inquiry.

11 Seumas, could you please put in the Chat  
12 tab 27. And I would like the court reporter to mark  
13 this as Alphabet Exhibit 10.

14 (Exhibit 10 marked)

15 MR. NAKAMURA: Alphabet Exhibit 10 is an  
16 excerpt from the August 11th, 2021 deposition of  
17 [REDACTED] As you can see in this excerpt which  
18 contains the title page, the reporter's certification  
19 and an excerpt, on page 197 I asked [REDACTED] this  
20 question with respect to Stonehenge and additional work  
21 [REDACTED].

22 He responded. There was no clawback of  
23 this transcript, motion to strike or anything else.

24 And as a result, not only have six months  
25 passed, but I believe that Alphabet has waived the

1 ability to claim privilege over this line of  
2 questioning.

3 MS. ELMER: We dispute your waiver  
4 argument, and we'll just have to take that up at a later  
5 time. But we are not going to waive the privilege in  
6 today's deposition.

7 MR. NAKAMURA: I understand. Thanks for  
8 your position.

9 Q. (By Mr. Nakamura) So let's move back to  
10 Exhibit 7. So turning to Exhibit 7, page 3. Let me  
11 know when you have that in front of you, [REDACTED]

12 A. Is this the February 25th letter?

13 Q. Yes, it is.

14 A. Yep.

15 Q. Under Project Stonehenge the second bullet  
16 point, is this a complete list of all outside counsel  
17 who were involved in Project Stonehenge?

18 A. Yes.

19 Q. And is the third bullet point a complete list  
20 of all Google in-house counsel who were involved in  
21 Project Stonehenge?

22 A. Yes.

23 Q. And is bullet point No. 4 a complete list of  
24 all Google employees other than Google in-house counsel  
25 who were involved in Project Stonehenge?

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1 A. Yes, with the same note that some of these were  
2 on the working team and others were more of the  
3 audience.

4 Q. All right. That's very helpful.

5 So who among these Google employees was on  
6 the working team?

7 A. So I'll go in order here. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

13 Q. Was there a leadership --

14 A. The nonlawyers. And then there were lawyers.

15 Q. I'm sorry. Yes. That's my fault.

16 Who were the lawyers who were on the  
17 working team for Project Stonehenge?

18 A. [REDACTED]. Those were the primary  
19 day-to-day.

20 Q. And was there a leadership team associated with  
21 Project Stonehenge?

22 A. Yes.

23 Q. Who was on that leadership team associated with  
24 Project Stonehenge?

25 A. [REDACTED], along with



1 I would include [REDACTED] in there.

2 Q. And were there any key decision-makers with  
3 respect to Project Stonehenge?

4 A. That assumes that a decision was reached, so  
5 that's impossible for me to answer.

6 Q. And that is because no decision was reached  
7 with respect to Project Stonehenge. Is that correct?

8 A. Yes.

9 Q. And what were [REDACTED] job  
10 responsibilities?

11 A. Sure. It's [REDACTED] She is the lead product  
12 manager for AdManager.

13 Q. And what work did she do for Project  
14 Stonehenge?

15 MS. ELMER: And I object to the extent  
16 that answering the question would call for information  
17 that invades the work product doctrine or the  
18 attorney/client privilege.

19 However, if there's a way to answer the  
20 question without invading the privilege, please do so.

21 A. Sure. Before I do that, I should have noted  
22 that [REDACTED] was part of the leadership team.

23 So her job was to lead the project as we  
24 considered remedies for potential antitrust litigation  
25 and privacy litigation.

1 Q. (By Mr. Nakamura) Thank you for that.

2 And what were [REDACTED] job  
3 responsibilities with respect to Project Stonehenge?

4 MS. ELMER: Same admonishment, but you may  
5 answer if there's a way to do so without invading the  
6 privilege.

7 A. Yeah. He's responsible for all engineers, for  
8 all of the publisher products, including AdManager, so  
9 he was a contributor.

10 Q. (By Mr. Nakamura) And what work did  
11 [REDACTED] do as part of Project Stonehenge?

12 MS. ELMER: Same admonishment.

13 A. He provided guidance.

14 Q. (By Mr. Nakamura) And guidance to whom?

15 A. To the working team and to leadership.

16 Q. And when you say "leadership," do you mean the  
17 leadership team we just discussed for Project Stonehenge  
18 or some other leadership team?

19 A. I basically mean [REDACTED]

20 Q. And what were [REDACTED] job responsibilities  
21 with respect to Project Stonehenge?

22 MS. ELMER: Same admonishment.

23 A. So he's responsible for the commercialization  
24 of our publisher products and how we bring them to  
25 market.

1 Q. (By Mr. Nakamura) And what work did [REDACTED]  
2 do with respect to Project Stonehenge?

3 MS. ELMER: Same instruction.

4 A. He provided guidance to the working team.

5 Q. (By Mr. Nakamura) And what were your job  
6 responsibilities with respect to Project Stonehenge?

7 MS. ELMER: Same instruction.

8 A. Primarily as an audience and to provide  
9 guidance to both the working team and to leadership.

10 Q. (By Mr. Nakamura) And what work did you do  
11 with respect to Project Stonehenge?

12 MS. ELMER: Same instruction.

13 A. I provided guidance to the working team and to  
14 leadership.

15 Q. (By Mr. Nakamura) What were [REDACTED] job  
16 responsibilities with respect to Project Stonehenge?

17 MS. ELMER: Same instruction.

18 A. He works for [REDACTED] and he's a project manager  
19 on AdManager.

20 Q. (By Mr. Nakamura) And what work did  
21 [REDACTED] do for Project Stonehenge?

22 MS. ELMER: Same instruction.

23 A. Analysis.

24 Q. (By Mr. Nakamura) And what analysis did  
25 [REDACTED] perform?

1 MS. ELMER: I'd instruct the witness not  
2 to answer because the question invades the work product  
3 doctrine and the attorney/client privilege.

4 Q. (By Mr. Nakamura) Will you follow Ms. Elmer's  
5 instruction?

6 A. Yes.

7 Q. Okay. What were [REDACTED] job  
8 responsibilities with respect to Project Stonehenge?

9 A. Apologies. Can I have one minute?

10 Q. Sure. No problem.

11 A. Okay. I'm ready to continue.

12 MS. ELMER: Same admonishment, but you may  
13 answer to the extent you can without invading the  
14 privilege, [REDACTED]

15 A. I apologize. Can you repeat the question.

16 Q. (By Mr. Nakamura) Absolutely, no problem.

17 What were [REDACTED] job  
18 responsibilities with respect to Project Stonehenge?

19 A. He is a senior engineering leader on the  
20 AdManager team.

21 Q. And what work did [REDACTED] do with respect to  
22 Project Stonehenge?

23 MS. ELMER: Same admonishment.

24 A. Analysis.

25 Q. (By Mr. Nakamura) And what sort of analysis

1 did [REDACTED] perform as part of Project Stonehenge?

2 MS. ELMER: I instruct the witness not to  
3 answer because the question invades the work product  
4 doctrine and the attorney/client privilege.

5 Q. (By Mr. Nakamura) Will you follow Ms. Elmer's  
6 instruction?

7 A. Yes.

8 Q. I'm sorry. Did you say "yes"?

9 A. Yes.

10 Q. Thank you. My fault.

11 What were Mr. [REDACTED] job responsibilities  
12 with respect to Project Stonehenge?

13 A. He's the engineer responsible for AdManager.

14 Q. And what work did Mr. [REDACTED] perform as part of  
15 Project Stonehenge?

16 MS. ELMER: Same admonishment.

17 A. He was a contributor to the working team.

18 Q. (By Mr. Nakamura) What contributions did  
19 Mr. [REDACTED] make to the working team?

20 MS. ELMER: If you can answer the question  
21 without invading the privilege or work product doctrine,  
22 you may; otherwise, I instruct the witness not to  
23 answer.

24 Q. (By Mr. Nakamura) Do you have any response  
25 that you can provide, [REDACTED] subject to your

1 counsel's instruction?

2 A. No.

3 Q. All right. And lastly on this list, what were  
4 [REDACTED] job responsibilities with respect to Project  
5 Stonehenge?

6 A. So she's the general manager for AVAD, which  
7 includes the publisher products.

8 Q. And what work did she perform with respect to  
9 Project Stonehenge?

10 MS. ELMER: Same admonishment.

11 A. Primarily audience, and she obviously among  
12 this list has the senior responsibility to decide how to  
13 steward the business in light of regulatory  
14 potentialities.

15 Q. (By Mr. Nakamura) Were any Alphabet employees  
16 or executives not listed here involved in considering  
17 any part of Project Stonehenge?

18 A. Not to my knowledge based on the diligence that  
19 we performed.

20 Q. And when did Project Stonehenge begin?

21 I'm sorry. You're muted, [REDACTED]

22 A. My apologies.

23 Stonehenge began in February of 2020.

24 Q. What event began Project Stonehenge?

25 A. Primarily the completion of a prior project at

1 which point we decided to investigate a particular line  
2 of remedies. And that prior project was precipitated by  
3 the seven investigations that were noted on page 2 of  
4 Exhibit 7.

5 Q. Thank you. I appreciate the precision.

6 And did Project Stonehenge evolve into  
7 Project Banksy as listed on the CID specification  
8 schedule?

9 A. No.

10 Q. Okay. When did Project Stonehenge end?

11 A. June 2020.

12 Q. Was there any event or occurrence that marked  
13 the end of Project Stonehenge in Alphabet's view?

14 A. This was more of a completion of analysis to  
15 our satisfaction.

16 Q. Okay. How many meetings in total occurred at  
17 Alphabet for Project Stonehenge?

18 A. I'd say on the order of 25.

19 Q. And of those 25 meetings, how many were  
20 attended by Alphabet's attorneys?

21 A. The majority, large majority.

22 Q. How many Alphabet employee hours have been  
23 spent on Project Stonehenge?

24 A. About 50.

25 Q. And how much did Alphabet spend on outside

1 counsel as related to Project Stonehenge?

2 A. That's tough to answer, again, because this is  
3 conflated with many other ongoing projects and difficult  
4 to ascertain from the available data. So I suspect it's  
5 a small to medium amount, likely more than SingleClick.

6 Q. Okay. I appreciate that.

7 And what records or information did you  
8 look at to come to the estimate you just provided that  
9 it is a small to medium amount and more than  
10 SingleClick?

11 A. There were more meetings, as indicated by the  
12 calendaring and the length of the project and analysis.

13 Q. And how many of the approximately 25 meetings  
14 that occurred as a result of Project Stonehenge were  
15 attended by Google's outside counsel?

16 A. A few.

17 Q. Less than five?

18 A. On the order of five.

19 Q. Thank you. If you could turn to page 2 of  
20 Exhibit 7.

21 A. (Witness complies.)

22 Q. Is this a list of government investigations  
23 that caused Alphabet to initiate Project Stonehenge?

24 A. The first seven, yes.

25 Q. And that, to be clear, excludes the Australian



1 Competition and Consumer Commission. Is that correct?

2 A. Yes.

3 Q. And are there any of these investigations on  
4 this list on Exhibit 7, page 2 that Alphabet anticipated  
5 litigation or it was dealing with actual litigation that  
6 caused it to initiate Project Stonehenge?

7 MS. ELMER: Object to the form of the  
8 question as compound.

9 Q. (By Mr. Nakamura) You can answer if you  
10 understand, [REDACTED]

11 A. I was going to ask some clarifying questions  
12 because I wasn't sure which specific question you're  
13 asking.

14 Q. Sure. So with respect to anticipated  
15 litigation, did Alphabet anticipate any litigation from  
16 any of the investigations on this list other than the  
17 ACCC investigation that caused it to initiate Project  
18 Stonehenge?

19 A. Yes. We anticipated litigation.

20 Q. And is there any actual litigation other than  
21 the investigations listed on page 2 of Exhibit 7 that  
22 Alphabet initiated Project Stonehenge in response to?

23 A. Okay. So you're asking for any investigation  
24 that are not on this list or litigation not on this  
25 list?

1 Q. Any litigation not on this list.

2 MS. ELMER: And to be clear, you're asking  
3 for any actual litigation not on this list, correct?  
4 You're not talking about government investigations;  
5 you're talking about actual litigation?

6 MR. NAKAMURA: Yes, that's correct.

7 MS. ELMER: [REDACTED] do you understand the  
8 question?

9 THE WITNESS: I do understand the  
10 question, but I would like to sidebar with you briefly.

11 MS. ELMER: All right. We'll take a quick  
12 break.

13 MR. NAKAMURA: All right.

14 THE VIDEOGRAPHER: Off the record at  
15 3:45 p.m.

16 (Recess taken)

17 THE VIDEOGRAPHER: Back on the record at  
18 3:49 p.m.

19 Q. (By Mr. Nakamura) [REDACTED] is there any  
20 actual litigation other than the investigations listed  
21 on page 2 of Exhibit 7 that Alphabet initiated Project  
22 Stonehenge in response to?

23 A. No.

24 Q. Is there any anticipated litigation other than  
25 the investigations listed on page 2 of Exhibit 7 that

1 Alphabet initiated Project Stonehenge in response to?

2 A. I'll answer generally no. You can't know  
3 what's going to happen. But we undertook based on  
4 these -- primarily on these seven.

5 Q. Okay. And were any -- I'm sorry.

6 Were any presentations prepared regarding  
7 Project Stonehenge?

8 A. Yes.

9 Q. How many?

10 A. One.

11 Q. On what date was that presentation given?

12 A. That was given approximately early June 2020.

13 Q. And who worked on creating that presentation?

14 A. That group that I walked through earlier. It's  
15 an extensive list of employees and counsel.

16 Q. And to be clear, does that involve all  
17 individuals listed in bullet points 3 and 4 of page --  
18 under the heading Project Stonehenge on page 3 of  
19 Exhibit 7, or does that include only the working group  
20 individuals that you identified?

21 A. Only the working group.

22 Q. Thank you.

23 And who attended the presentation given in  
24 early June 2020 about Project Stonehenge?

25 A. The group in bullets 3 and 4 and a few people

1 from bullet 2.

2 Q. And who were the individuals from bullet 2 that  
3 attended the June 2020 presentation given about Project  
4 Stonehenge?

5 A. I believe, and I'm not sure I can remember the  
6 specific detail, but I believe it was [REDACTED]  
7 and [REDACTED], if I recall.

8 Q. I'm sorry. The second name you said was [REDACTED]  
[REDACTED]?

10 A. Yes. They're both listed in bullet 2.

11 Q. Thank you. Just found it.

12 Were any draft presentations prepared for  
13 Project Stonehenge that were not finalized?

14 A. No. The draft turned into the final product.

15 Q. Okay. Did any Alphabet employee create a  
16 financial forecast as a part of Project Stonehenge?

17 MS. ELMER: So object to the extent that  
18 the question is attempting to get at the substance of  
19 Project Stonehenge documents which are work product and  
20 privileged. To the extent that the question can be  
21 answered without invading the privilege, the witness may  
22 do so.

23 A. I am not able to.

24 Q. (By Mr. Nakamura) Okay. Did Alphabet project,  
25 model or otherwise consider any cost savings as a part

1 of Project Stonehenge?

2 MS. ELMER: Same instruction.

3 Q. (By Mr. Nakamura) Are you able to provide an  
4 answer subject to your counsel's instructions,

5 [REDACTED]

6 A. Yes.

7 Q. I'm sorry. My question was are you able to  
8 provide an answer subject to your counsel's  
9 instructions?

10 A. I am not able to provide an answer.

11 Q. Thank you.

12 As part of Project Stonehenge, is Alphabet  
13 considering any changes to the ways its AdTech products  
14 operate?

15 MS. ELMER: I instruct the witness not to  
16 answer because the question invades the work product  
17 doctrine and the attorney/client privilege.

18 Q. (By Mr. Nakamura) And will you follow that  
19 instruction, [REDACTED]

20 A. Yes.

21 Q. As part of Project Stonehenge, is Alphabet  
22 considering changing the pricing associated with any of  
23 its AdTech products?

24 MS. ELMER: Same instruction.

25 Q. (By Mr. Nakamura) And will you follow

1 Ms. Elmer's instruction not to answer, [REDACTED]

2 A. Yes.

3 Q. Did Project Stonehenge incorporate any other  
4 analyses previously created by Alphabet employees prior  
5 to the beginning of Project Stonehenge?

6 MS. ELMER: And to the extent that you can  
7 answer the question without invading the privilege or  
8 work product, you may do so; otherwise, I instruct the  
9 witness not to answer.

10 A. I'm sorry. Can you repeat it one more time.

11 Q. (By Mr. Nakamura) Sure. Did Project  
12 Stonehenge incorporate any analyses previously created  
13 by Alphabet employees prior to the beginning of Project  
14 Stonehenge?

15 MS. ELMER: Same admonishment.

16 A. Yes.

17 Q. (By Mr. Nakamura) And what analyses previously  
18 created by Alphabet employees prior to the beginning of  
19 Project Stonehenge were incorporated into Project  
20 Stonehenge?

21 MS. ELMER: So same instruction. If you  
22 can answer without invading the privilege or the work  
23 product doctrine, you may do so. If your answer would  
24 invade the work product doctrine or the privilege, I  
25 instruct you not to answer.

1 A. I think the extent to which I can answer is  
2 that analysis from Project SingleClick was used, but I  
3 can't go into the details without invading the  
4 privilege.

5 Q. (By Mr. Nakamura) Okay. Thank you.

6 What data sources did Alphabet employees  
7 rely upon for any financial analyses prepared for  
8 Project Stonehenge?

9 MS. ELMER: So object to the form as  
10 assuming facts not in evidence, and I also instruct the  
11 witness not to answer to the extent that doing so would  
12 invade the work product doctrine or the attorney/client  
13 privilege.

14 A. Yeah. I'm unable to answer.

15 Q. (By Mr. Nakamura) Okay.

16 MS. ELMER: Can we take a quick break?  
17 I'm sorry. It's for me.

18 MR. NAKAMURA: Yeah. No problem. That's  
19 fine, Julie.

20 MS. ELMER: Can we take ten minutes? I've  
21 got to get a bite to eat.

22 MR. NAKAMURA: Yeah. That's totally fine.

23 MS. ELMER: Okay. Thank you.

24 MR. NAKAMURA: You're welcome.

25 THE VIDEOGRAPHER: Off the record at

1 3:56 p.m.

2 (Recess taken)

3 THE VIDEOGRAPHER: We're back on the  
4 record at 4:03 p.m.

5 Q. (By Mr. Nakamura) All right. Thank you for  
6 returning, [REDACTED] I just have one more question.  
7 What data sources did Alphabet's employees rely on for  
8 any pricing analyses prepared for Project Stonehenge?

9 MS. ELMER: So I instruct the witness not  
10 to answer because the question invades the work product  
11 doctrine and the attorney/client privilege. I also  
12 object to the form as assuming facts not in evidence.

13 Q. (By Mr. Nakamura) And, [REDACTED] will you  
14 follow your counsel's instruction not to answer?

15 A. Yes.

16 MR. NAKAMURA: Seumas, could you please  
17 put in the Chat tab 14.

18 Q. (By Mr. Nakamura) All right, [REDACTED]  
19 Please let me know when you have that in front of you.

20 MR. NAKAMURA: While you are downloading  
21 it, this is a document produced by Alphabet beginning at  
22 Bates No. GOOG-DOJ-AT-00030150, ending in Bates  
23 No. 0159. It is a document that was produced in  
24 redacted form and identified in Ms. Elmer's  
25 November 15th letter as related to Project SingleClick



1 and Project Stonehenge.

2 Q. (By Mr. Nakamura) With that, please let me  
3 know when you have reviewed this document.

4 MS. ELMER: All right. We'll be clawing  
5 this one back as well. And I'd like to take a break to  
6 discuss an issue of privilege, but I can tell you we'll  
7 be clawing that one back as well.

8 MR. NAKAMURA: Okay. Sounds good. Go off  
9 the record.

10 THE VIDEOGRAPHER: Off the record at  
11 4:05 p.m.

12 (Recess taken)

13 THE VIDEOGRAPHER: Back on the record at  
14 4:16 p.m.

15 MS. ELMER: So as I stated a moment ago,  
16 we'll be clawing back this exhibit as well and  
17 reproducing a copy that we can use in the deposition  
18 shortly.

19 MR. NAKAMURA: Okay. Thank you. Do you  
20 have any estimate, Ms. Elmer, with respect to the other  
21 documents that were clawed back as to when they will be  
22 produced to me?

23 MS. ELMER: Momentarily.

24 MR. NAKAMURA: Just for the record for  
25 completeness, I would like the court reporter to have

1 marked the exhibit that was just clawed back as  
2 Exhibit 11; but, of course, you may claw it back.

3 (Exhibit 11 marked)

4 Q. (By Mr. Nakamura) All right. With that, I'll  
5 move on.

6 [REDACTED] I would now like to ask you  
7 about Project Banksy which is part of specifications 1f  
8 and specification 2.

9 Who chose the name "Project Banksy" for  
10 the project?

11 A. I suspect it was the lead engineer working on  
12 the project, [REDACTED]

13 Q. [REDACTED] is that what you just said?

14 A. Yes.

15 Q. Thank you. What was the subject -- I'm sorry,  
16 let me back up.

17 Let's refer to Exhibit 7, which is the  
18 February 25th letter sent by your counsel, Ms. Elmer,  
19 page 4. Please let me know when you have that in front  
20 of you.

21 A. Yep, I do.

22 Q. Great. What is the subject matter of Project  
23 Banksy?

24 A. So as laid out in [REDACTED] testimony,  
25 there's two parts to it.

1 One was an early examination of header  
2 bidding as a project feature, and then, secondly, it  
3 morphed into a product or into an effort that was a  
4 response to a particular antitrust investigation.

5 Q. And what antitrust investigation was the second  
6 Project Banksy a response to?

7 A. The French Competition Authority.

8 Q. And what were Alphabet's objectives as part of  
9 Project Banksy?

10 MS. ELMER: So to the extent that this --  
11 well, actually, I instruct the witness not to answer the  
12 question as it invades the work product doctrine and the  
13 attorney/client privilege.

14 Q. (By Mr. Nakamura) And will you follow that  
15 instruction, [REDACTED]

16 A. Yes.

17 Q. Turning now to bullet point 2 that starts on  
18 page 4 and runs into page 5 of Exhibit 7, is this a full  
19 and complete list of all outside counsel who worked on  
20 the second Project Banksy?

21 A. Yes.

22 Q. And is the first full bullet point on page 4 a  
23 full and complete list of all Google in-house counsel  
24 who worked on the second version of Project Banksy?

25 A. Yeah. I just want to again specify that not

1 everyone here worked on it. Some were made aware of the  
2 project.

3 Q. But in terms of anyone who worked on the  
4 project, is that a full and complete list?

5 A. Yes.

6 Q. Thank you.

7 MS. ELMER: I'd like to clarify. I think,  
8 Brent, in your earlier question about a bullet point  
9 that started on page 4 and runs into page 5, what you  
10 meant to say was bullet point 2 that starts on page 3  
11 and runs into page 4.

12 MR. NAKAMURA: Yes. Thank you, Julie.  
13 That is what I meant. I appreciate that.

14 Q. (By Mr. Nakamura) And so on the second full  
15 bullet point on page 4, is this a full and complete list  
16 of Google employees who worked on or were an audience  
17 for Project Banksy?

18 A. There may be a few others who were an audience.

19 And I think it's important to note in a  
20 project like this, especially given the tight relation  
21 to a regulatory matter, that it would have gone up the  
22 chain for acknowledgments, though I don't -- I wouldn't  
23 necessarily classify the cross-functional leadership up  
24 the chain as an audience as much as they were very  
25 briefly made aware, possibly asked for a simple ack.

1 So I'll just note that there may be some  
2 names in executive leadership not included here in that  
3 capacity. So it's really a question of what you mean by  
4 audience.

5 Q. And what do you mean by "simple ack"?

6 A. An ack, acknowledgment. So, for example, if  
7 the working team came up with a plan in conjunction with  
8 counsel that they intended to supply to a regulatory  
9 authority, they would pass that to me; I would ask some  
10 questions.

11 And then once that's to my satisfaction,  
12 it would go up to my superiors in product, maybe  
13 engineering, maybe general management, maybe finance,  
14 maybe legal, so further up the chain there. And they  
15 would be informed but not necessarily in a presentation.

16 It would be more of a, Hey, here's what we  
17 plan to do. We want to make you aware. Do you have any  
18 concerns? If not, we're going to move forward. Please  
19 acknowledge this e-mail. And then they would simply say  
20 "ack" or "I agree."

21 And that's generally how these matters  
22 work because of the complicated structures in our  
23 corporate environment.

24 Q. Thank you. I appreciate that explanation.  
25 It's very helpful.

1 So what are the names in executive  
2 leadership not included in this bullet point that would  
3 have been possibly asked for a simple a-c-k, ack?

4 A. I imagine [REDACTED] and Kent Walker and  
5 possibly Philipp.

6 Q. And when you say "Philipp," you mean Philipp  
7 Schindler. Is that correct?

8 A. That's right, yep.

9 Q. And is it common for Mr. Walker to be involved  
10 in these sorts of simple ack issues?

11 A. I don't think these happen very often. So here  
12 we're talking about, you know, a potential settlement  
13 with a regulatory authority. As you can empathize,  
14 these things don't happen very often. So when they do,  
15 it's important that our, you know, chief legal and  
16 public affairs officer is aware and supportive.

17 Q. Just to be clear, Mr. Walker then is both your  
18 chief legal and public affairs officer. Is that  
19 correct?

20 A. To my knowledge, yes.

21 Q. And as part of the Project Banksy, the version  
22 that we are now discussing, which is the second version,  
23 who was on the working team with respect to Project  
24 Banksy?

25 A. So I'm reading from the fourth bullet point

1 which is on page 4 of Exhibit 7, [REDACTED] [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED] Yeah, those are the employees, the  
5 nonlawyer employees.

6 And then I would note [REDACTED]  
[REDACTED], actually, pretty much everyone on the  
8 in-house Google counsel was part of the working team  
9 here.

10 Q. Thank you. I appreciate that.

11 And who, if anyone, was on the leadership  
12 team with respect to Project Banksy?

13 A. [REDACTED] [REDACTED] [REDACTED] [REDACTED] and then  
14 several of the in-house counsel.

15 Q. And which specific in-house counsel were on the  
16 leadership team?

17 A. Ted and [REDACTED] and [REDACTED]

18 Q. Okay. Is there anyone else?

19 A. No.

20 Q. And so what were [REDACTED] responsibilities  
21 with respect to Project Banksy?

22 A. He's a product manager on AdManager.

23 Q. And what work did he perform with respect to  
24 Project Banksy?

25 MS. ELMER: And so to the extent that you

1 can answer the question without invading the work  
2 product doctrine or the attorney/client privilege, you  
3 may; otherwise, I instruct you not to answer.

4 A. He provided product management. That's the  
5 extent of the detail I can go into.

6 Q. (By Mr. Nakamura) And am I correct in that you  
7 cannot provide more detail because it would require you  
8 to divulge privileged information? Is that correct?

9 A. Yes.

10 Q. Thank you.

11 And what were [REDACTED] job  
12 responsibilities with respect to Project Banksy?

13 A. Engineering.

14 Q. And what work did [REDACTED] perform with  
15 respect to Project Banksy?

16 MS. ELMER: Same instruction.

17 A. Engineering.

18 Q. (By Mr. Nakamura) And is it that you cannot  
19 provide more detail because it would be disclosing  
20 privileged information?

21 A. Yes.

22 Q. What were [REDACTED] job responsibilities  
23 with respect -- I apologize, with respect to Project  
24 Banksy?

25 A. Can I confer for a second?



1 Q. Sure. Let's go off the record.

2 A. Thank you.

3 THE VIDEOGRAPHER: Off the record at  
4 4:29 p.m.

5 (Recess taken)

6 THE VIDEOGRAPHER: On the record at  
7 4:33 p.m.

8 Q. (By Mr. Nakamura) What were [REDACTED] job  
9 responsibilities with respect to Project Banksy?

10 A. General engineering.

11 Q. Can you provide any more detail as to what you  
12 mean by "general engineering"?

13 MS. ELMER: Same instruction.

14 A. No.

15 Q. (By Mr. Nakamura) And just to be clear, since  
16 we just took a break, do you mean that you're refusing  
17 to answer on the basis of Ms. Elmer's privilege  
18 instruction?

19 A. Yes.

20 MS. ELMER: And work product.

21 A. Yes.

22 Q. (By Mr. Nakamura) What were [REDACTED] job  
23 responsibilities with respect to Project Banksy?

24 A. He leads commercialization with the publisher  
25 community.

1 Q. And what work did [REDACTED] perform with  
2 respect to Project Banksy?

3 MS. ELMER: So to the extent you can  
4 provide an answer to the question without invading the  
5 work product doctrine or the attorney/client privilege,  
6 you may; otherwise, I instruct you not to answer.

7 A. He and his team would be responsible for public  
8 outreach.

9 Q. (By Mr. Nakamura) And public outreach to whom?

10 A. To publishers.

11 Q. And as part of Project Banksy, did [REDACTED]  
12 team actually reach out to any publishers?

13 A. Yes.

14 Q. And which publishers did [REDACTED] team  
15 reach out to as part of Project Banksy?

16 A. I don't know. It would have been probably a  
17 small- to medium-sized group.

18 Q. Did you review any documents in preparation for  
19 this deposition that would have helped you understand  
20 which publishers he reached out to as a part of Project  
21 Banksy?

22 A. No, I didn't. It's a fairly standard process  
23 that we go through with, you know, hundreds of different  
24 product launches. So this would have been fairly  
25 ordinary.

1 Q. And what were [REDACTED] job

2 responsibilities with respect to Project Banksy?

3 MS. ELMER: So I object -- or instruct the  
4 witness not to answer to the extent that his answer  
5 would invade the privilege. But if there is a way that  
6 he can provide an answer without invading the privilege,  
7 he may do so.

8 A. She provided legal guidance and leadership.

9 Q. (By Mr. Nakamura) And is there any further  
10 information you can provide me with respect to the legal  
11 guidance and leadership?

12 A. Everything would be privileged there, so I  
13 apologize. I cannot.

14 Q. And what was Mr. Lazarus' job responsibilities  
15 with respect to Project Banksy?

16 MS. ELMER: Same instruction.

17 A. Given he's our general product counsel for ads,  
18 he would have been also involved in leadership and  
19 guidance to the team.

20 Q. (By Mr. Nakamura) And what guidance did  
21 Mr. Lazarus provide to the team with respect to Project  
22 Banksy?

23 MS. ELMER: Same instruction. The  
24 question invades the attorney/client privilege, and I  
25 instruct the witness not to answer.

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1 Q. (By Mr. Nakamura) Will you follow Ms. Elmer's  
2 instruction?

3 A. Yes.

4 Q. And lastly, what were [REDACTED] job  
5 responsibilities with respect to Project Banksy?

6 MS. ELMER: To the extent that you can  
7 answer without invading the privilege, you may.

8 A. Well, he was product counsel for AdManager at  
9 the time.

10 Q. (By Mr. Nakamura) Is there any more  
11 information you can provide about his job  
12 responsibilities?

13 MS. ELMER: Same instruction.

14 A. Other than being product counsel, no.

15 Q. (By Mr. Nakamura) Okay. When did Project  
16 Banksy begin?

17 MS. ELMER: So are you referring to the  
18 second type of Project Banksy, the remedies analysis, in  
19 your question?

20 MR. NAKAMURA: Yes. Thank you. I'll  
21 rephrase.

22 Q. (By Mr. Nakamura) When did the Project Banksy  
23 remedies analysis begin?

24 A. Approximately spring of 2020.

25 Q. And do you have any better approximation of on

1 what date or month Project Banksy remedies analysis  
2 began?

3 A. April.

4 Q. Thank you.

5 And what event began Project Banksy?

6 A. The investigation from the French authority.

7 Q. And how many meetings regarding Project Banksy  
8 have taken place since -- the remedies Project Banksy  
9 have taken place since April of 2020?

10 A. A lot.

11 Q. What is your reasonable estimate as Alphabet's  
12 designee about the number of meetings that have taken  
13 place regarding Project Banksy, the remedies analysis?

14 A. Approximately 50 to 60.

15 Q. And how many of those 50 to 60 meetings were  
16 attended by Google's in-house counsel?

17 A. So this depends, but I would say likely -- I  
18 would say about half.

19 Q. And how many of those 50 to 60 meetings were  
20 attended by Google's outside counsel?

21 A. Probably about a quarter.

22 Q. And at any time did anyone at Alphabet discuss  
23 the remedies Project Banksy with an individual or entity  
24 other than Alphabet's lawyers that was not employed by  
25 Alphabet?

1 MS. ELMER: So are you excepting here the  
2 publisher outreach?

3 MR. NAKAMURA: Yes.

4 MS. ELMER: Or discussions with  
5 regulators?

6 Q. (By Mr. Nakamura) Well, my question is at any  
7 time did anyone at Alphabet discuss the remedies Project  
8 Banksy with an individual or entity other than  
9 Alphabet's lawyers that was not employed by Alphabet?

10 MS. ELMER: Yeah. I object to the  
11 question as vague. I think maybe if you break it down  
12 by time period or type of third party, it might be  
13 helpful.

14 Q. (By Mr. Nakamura) Other than the publishers  
15 you referred to earlier, did anyone at Alphabet discuss  
16 Project Banksy with an individual or entity not employed  
17 by Alphabet, the remedies version of Project Banksy,  
18 other than with Alphabet's outside counsel?

19 MS. ELMER: Same objection.

20 You may answer if you know.

21 THE WITNESS: I need about one minute with  
22 counsel.

23 MR. NAKAMURA: Sure. Go off the record.

24 THE VIDEOGRAPHER: Off the record at  
25 4:40 p.m.

1 (Recess taken)

2 THE VIDEOGRAPHER: Back on the record at  
3 4:44 p.m.

4 Q. (By Mr. Nakamura) All right. [REDACTED] to  
5 the best of your knowledge, did anyone at Google discuss  
6 Project Banksy's remedy portion with any third party  
7 that was not representing Google as legal counsel?

8 A. Yes.

9 Q. And what were the third parties with whom  
10 remedies Project Banksy was discussed?

11 A. So I can construct a timeline of who was spoken  
12 with?

13 Q. That would be great, thank you.

14 A. Okay. So the first non-counsel party we spoke  
15 with was the regulator in France. After we reached an  
16 agreement there, we spoke with our customers to design  
17 an appropriate solution; and then we further  
18 commercialized the product and spoke with more customers  
19 after -- or actually, we posted a -- we made a blog post  
20 in conjunction with the settlement, and then we further  
21 commercialized.

22 Q. And in the second step, the customers you spoke  
23 to to design an appropriate solution, who were those  
24 customers?

25 A. I can't speak to them directly, but I can give

1 you the general character of them were publishers who  
2 were interested in including header bidding in their  
3 setups or who already did and for which this product  
4 would be a good enhancement for them.

5 Q. And what did you discuss with those customers  
6 with respect to remedies Project Banksy?

7 A. I think we were confirming, validating  
8 particular features or subfeatures that would be  
9 included in the header bidding manager.

10 Q. And what were those particular features that  
11 would be included in the header bidding manager?

12 A. Now you're into like some pretty technical  
13 details. [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

19 Q. And what subfeatures did Alphabet discuss with  
20 customers as part of this process?

21 A. Those are the subfeatures. The feature is  
22 header bidding manager. Yeah. Those are the  
23 subfeatures.

24 Q. Thank you for that clarification.

25 When communicating with these third-party



1 customers, did Alphabet employees propose this solution  
2 as an alternative to header bidding?

3 A. Not really. It's more of a facilitation of  
4 header bidding and an integration of header bidding into  
5 AdManager.

6 Q. And approximately how many customers did  
7 Alphabet employees speak with as a part of this second  
8 step in your timeline?

9 A. On the order of ten.

10 Q. And who were those ten customers?

11 A. I don't know.

12 Q. Who at Alphabet would be knowledgeable about  
13 the identities of those ten customers?

14 A. [REDACTED] and either [REDACTED]  
[REDACTED]

16 Q. Thank you for that.

17 Let me loop back to close out one  
18 question.

19 Of the approximately 50 to 60 meetings  
20 that occurred as a result of remedies Project Banksy,  
21 what percentage of those meetings did not involve any  
22 legal counsel, whether inside or outside counsel?

23 A. About half.

24 Q. Thank you.

25 What was the cost associated with Project

1 Banksy specified in the number of employee hours worked  
2 on remedies Project Banksy?

3 A. My best guess would be on the order of 2 to  
4 300 hours.

5 Q. And how much did Alphabet pay to outside  
6 counsel in fees as a result of Project Banksy?

7 A. Again, this is difficult to answer just because  
8 it's intertwined with the other issues that I can't  
9 speak to. So it's hard for me to provide an estimate.  
10 But I suspect, given it was entangled with a settlement  
11 that was a much larger settlement, that I imagine it was  
12 a lot.

13 Q. Which is to say larger than Project  
14 SingleClick. Is that correct?

15 A. Yes. I think it's fair to say that regulators  
16 require a lot of legal time.

17 Q. And has Alphabet paid any money to any  
18 nonlawyer third parties as a result of remedies Project  
19 Banksy?

20 A. No. Any nonlawyer third parties as part of a  
21 remedy. I can't speak to parts of a settlement that  
22 would have been outside of this portion. So I just want  
23 to caveat my answer with that.

24 Q. I'm sorry. Were there parts of a settlement  
25 that were outside of Project Banksy with the French

1 Competition Authority?

2 MS. ELMER: The question goes beyond the  
3 scope of the CID, but the witness may answer in his  
4 individual capacity if he knows.

5 A. My understanding is that there were several  
6 other aspects to the settlement apart from this project  
7 that have -- that are not involved in my products, which  
8 may or may not have included some type of payment, which  
9 I think was your question.

10 Q. (By Mr. Nakamura) Yes. No. That's helpful,  
11 and I appreciate that clarification.

12 So turning to page 2 of Exhibit 7 -- and  
13 that's the February 25th letter -- which of the  
14 government investigations listed here served as a basis  
15 for Alphabet's initiation of remedies Project Banksy?

16 A. Primarily the French Competition Authority, and  
17 I would also say with, you know, additional concern from  
18 the U.K. CMA, Texas, the U.S. Department of Justice and  
19 the EC.

20 Q. Okay. Thank you.

21 And are there any government  
22 investigations that are not listed here that caused  
23 Alphabet to initiate Project Banksy remedies?

24 A. No.

25 Q. And was any actual litigation the cause of

1 Alphabet initiating remedies Project Banksy?

2 MS. ELMER: You're talking about actual  
3 lawsuits?

4 MR. NAKAMURA: Yes.

5 MS. ELMER: Is that correct?

6 MR. NAKAMURA: Yes.

7 MS. ELMER: That's distinct from  
8 government investigations, correct?

9 MR. NAKAMURA: Yes, that's correct.

10 A. No.

11 Q. (By Mr. Nakamura) Was there any anticipated  
12 litigation other than the government investigations  
13 listed here that caused Alphabet to initiate the  
14 remedies Project Banksy?

15 A. No.

16 Q. Were any presentations prepared regarding  
17 Project Banksy?

18 A. I'm sorry. Could you repeat.

19 Q. I apologize. Were any presentations prepared  
20 regarding remedies Project Banksy?

21 A. Yes.

22 Q. How many?

23 A. Several.

24 Q. And numerically what do you mean by "several"?

25 A. Meaning there were analysis documents and other

1 types of documents all the way through to launching  
2 products. So, I mean, that typically involves a number  
3 of different documents for each of those stages of the  
4 process.

5 Q. And what was the final presentation made -- I'm  
6 sorry.

7 When was the final presentation made  
8 regarding project remedies Bansky?

9 MS. ELMER: Object to the form, assumes  
10 facts.

11 You may answer if you understand.

12 A. I think you're suggesting the project's done,  
13 and I would dispute that the project is done.

14 Q. (By Mr. Nakamura) All right. That is fair.

15 MS. ELMER: Hey, Brent, I'm sorry. Can we  
16 take a quick break?

17 MR. NAKAMURA: Sure. Let's go off the  
18 record.

19 THE VIDEOGRAPHER: Off the record at  
20 4:56 p.m.

21 (Recess taken)

22 THE VIDEOGRAPHER: Back on the record at  
23 5:00 p.m.

24 Q. (By Mr. Nakamura) All right, [REDACTED]  
25 When was the latest presentation made with respect to

1 remedies Project Banksy?

2 A. Very recently.

3 Q. And who made that presentation?

4 A. [REDACTED]

5 Q. And who helped prepare that presentation?

6 A. [REDACTED] and likely the program manager,  
7 [REDACTED], and either [REDACTED].

8 Q. Thank you for that.

9 And who attended the most recent  
10 presentation with respect to remedies Project Banksy?

11 A. That would have been [REDACTED] [REDACTED] [REDACTED],  
12 myself, [REDACTED] That's the likely lead set.

13 Q. Okay.

14 A. Probably also [REDACTED].

15 Q. And did any attorneys attend the most recent  
16 presentation with respect to remedies Project Banksy?

17 A. Yes. Likely that would have been [REDACTED] who I  
18 believe is not listed on here as in-counsel because  
19 she's relatively recent.

20 Q. And what is [REDACTED] last name?

21 A. I believe it's [REDACTED]. I can look that up  
22 or submit it to you shortly.

23 Q. Sure. We can get that from your counsel later.

24 And who created the first presentation  
25 with respect to remedies Project Banksy?

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1 A. I believe that would have been [REDACTED]  
2 and [REDACTED]

3 MS. ELMER: I'm sorry. Before we move on,  
4 I just wanted to confirm [REDACTED] last name is [REDACTED]

5 MR. NAKAMURA: Okay. Thank you.

6 A. I apologize. I'm terrible with names, so bear  
7 with me.

8 Q. (By Mr. Nakamura) No problem. I'm glad you  
9 gave us the information.

10 So who attended the first presentation  
11 with respect to remedies Project Banksy?

12 A. [REDACTED]  
[REDACTED]. That's it.

14 Q. Thank you.

15 A. Yeah. That's it.

16 Q. Did any attorneys attend the first remedies  
17 Project Banksy presentation?

18 A. Yes. That would have been [REDACTED] and I don't  
19 remember if [REDACTED] was involved at that point.

20 Q. Did any Alphabet employee create a financial  
21 forecast as a part of Project Remedies Banksy?

22 MS. ELMER: And to the extent that your  
23 question is seeking the contents of the privileged and  
24 work product documents, I instruct the witness not to  
25 answer.

1 A. Yeah. I unfortunately can't answer for  
2 privilege.

3 Q. (By Mr. Nakamura) Okay. Thank you.

4 And did Alphabet project, model or  
5 otherwise consider any cost savings as a part of  
6 remedies Project Banksy?

7 MS. ELMER: Same instruction.

8 Q. (By Mr. Nakamura) And will you follow your  
9 counsel's instruction not to answer, [REDACTED]

10 A. Yes.

11 Q. As part of remedies Project Banksy, is Alphabet  
12 considering changing the pricing of any of its ad tech  
13 products?

14 MS. ELMER: Same instruction.

15 Q. (By Mr. Nakamura) And will you follow your  
16 counsel's instruction not to answer, [REDACTED]

17 A. Yes.

18 Q. Did Project Banksy, the remedies version,  
19 incorporate any other analyses created by Alphabet  
20 employees prior to the beginning of Project Banksy?

21 MS. ELMER: Can we take a break to discuss  
22 an issue of privilege?

23 MR. NAKAMURA: Sure.

24 A. Can you restate it before we break?

25 Q. (By Mr. Nakamura) Sure. Did the remedies



1 version of Project Banksy incorporate any analyses  
2 created by Alphabet employees prior to the beginning of  
3 Project Banksy, the remedies version?

4 MS. ELMER: Okay.

5 MR. NAKAMURA: Let's go off the record.

6 THE VIDEOGRAPHER: Off the record at

7 5:06 p.m.

8 (Recess taken)

9 THE VIDEOGRAPHER: Back on the record at

10 5:14 p.m.

11 Q. (By Mr. Nakamura) All right, [REDACTED]

12 Before the break I asked you whether the remedies  
13 version of Project Banksy incorporated any analyses  
14 created by Alphabet employees prior to the beginning of  
15 the project.

16 A. Yes.

17 Q. And what were those analyses?

18 A. Well, we performed a lot of analyses in the  
19 initial Banksy effort prior to the regulatory  
20 (inaudible).

21 Q. And what were the names of those analyses?

22 A. I can't speak to that because that would be  
23 privileged.

24 Q. Okay. Can you provide any more information  
25 about the analyses that were performed as part of the

1 initial Bansky effort?

2 A. Sure. If you're more specific, I can.

3 Q. Well, all I have is the answer you gave as to,  
4 "And what were those analyses?

5 "We performed a lot of analyses in the  
6 initial Bansky effort prior to the regulatory portion."

7 And so my question is what were those  
8 analyses?

9 MS. ELMER: Yeah. And point of  
10 clarification here, you know, were you asking whether to  
11 name the analyses that were incorporated into the  
12 remedies project, or are you asking him just what type  
13 of analyses were performed in the original project  
14 generally?

15 MR. NAKAMURA: The names of the analyses  
16 that were incorporated into the remedies project.

17 MS. ELMER: Okay. And to that question I  
18 instruct the witness not to answer because answering  
19 would invade the work product doctrine.

20 MR. NAKAMURA: All right.

21 Q. (By Mr. Nakamura) Will you follow Ms. Elmer's  
22 instruction?

23 A. Yes.

24 Q. What data sources did Alphabet employees rely  
25 upon for any financial analyses prepared for remedies

1 Project Banksy?

2 MS. ELMER: Same instruction and object to  
3 the form.

4 Q. (By Mr. Nakamura) Will you answer that  
5 question, [REDACTED]

6 A. No.

7 Q. And are there any successor projects to Project  
8 Banksy?

9 MS. ELMER: I instruct the witness not to  
10 answer because that project invades the attorney/client  
11 privilege and the work product doctrine.

12 Q. (By Mr. Nakamura) And what is the name of the  
13 successor project to Project Banksy?

14 MS. ELMER: Same instruction.

15 Q. (By Mr. Nakamura) Okay. And will you follow  
16 that instruction, [REDACTED]

17 A. Yes.

18 Q. Is there a successor project to Project Banksy?

19 MS. ELMER: Same instruction.

20 Q. (By Mr. Nakamura) All right. Will you follow  
21 that instruction, [REDACTED]

22 A. Yes.

23 MR. NAKAMURA: And, Ms. Elmer, is your  
24 position on behalf of Alphabet that the existence of a  
25 successor project to Project Banksy is properly

1 protected by privilege?

2 MS. ELMER: My position is that it's  
3 beyond the scope of the CID.

4 And, you know, this whole exercise is  
5 borderline. I think the CID for the most part, the  
6 topics that are set forth in it are not valid because  
7 they attempt to invade the attorney/client privilege and  
8 the work product doctrine.

9 We're not going to go beyond the scope of  
10 the CID to talk about more privileged projects and work  
11 product projects. We're just not going to do that, not  
12 in the deposition here today.

13 Q. (By Mr. Nakamura) All right. [REDACTED]  
14 will you follow Ms. Elmer's instruction not to answer my  
15 question?

16 A. Yes.

17 Q. Let me now turn to Project Quantize, which is  
18 part of specifications 1g and specification 2.

19 Who chose the name "Project Quantize" for  
20 the projects?

21 A. I did.

22 Q. And if you could turn, please, to Exhibit 7,  
23 which is the February 25th letter, on page 5 of the PDF.  
24 Please let me know when you have that in front of you.

25 A. I do.

1 Q. What was the subject matter of Project  
2 Quantize?

3 MS. ELMER: And to the extent that you can  
4 answer the question without invading the privilege, you  
5 may do so, [REDACTED] otherwise, I instruct you not to  
6 answer.

7 A. Yeah. So I was seeking legal advice with  
8 respect to GDPR and its impact on our products.

9 Q. (By Mr. Nakamura) And from whom were you  
10 seeking legal advice?

11 A. From our in-house P counsel and our privacy  
12 counsel.

13 Q. What do you mean when you say "P counsel"?

14 A. Product counsel.

15 Q. And what is the name of your product counsel?

16 A. [REDACTED]

17 Q. Okay. And what is the name of the privacy  
18 counsel you just referenced?

19 A. That's [REDACTED] and [REDACTED]

20 Q. And were any product counsel involved with  
21 Project Quantize?

22 A. No.

23 Q. Is the third bullet point that runs from page 5  
24 to page 6 of Exhibit 7 a full and complete list of all  
25 Google employees who are not in-house counsel who worked

1 on Project Quantize?

2 A. The actual team that worked on it was a very,  
3 very small subset of this list. This is more of the  
4 audience that the legal advice went out to.

5 Q. And who in this list was part of that very  
6 small subset that was part of the actual team that  
7 worked on Project Quantize?

8 A. Me, [REDACTED] and [REDACTED]

9 Q. And what were your job responsibilities with  
10 respect to Project Quantize?

11 MS. ELMER: I admonish the witness that he  
12 be mindful not to invade the privilege with his answer.

13 A. To establish the goals of the project.

14 Q. (By Mr. Nakamura) And is there any more  
15 information you can provide subject to Ms. Elmer's  
16 instruction?

17 A. No. That would speak to the legal advice I was  
18 seeking.

19 Q. And what work did you perform with respect to  
20 Project Quantize?

21 MS. ELMER: Same instruction.

22 A. I established the team and the problem  
23 statements.

24 Q. (By Mr. Nakamura) And other than establishing  
25 the team and the problem statements, is there any other

1 information you can provide subject to Ms. Elmer's  
2 instructions with respect to the work you performed on  
3 Project Quantize?

4 A. No.

5 Q. In total how many meetings occurred at Alphabet  
6 for Project Quantize?

7 A. Approximately eight.

8 Q. And when did the first meeting occur for  
9 Project Quantize?

10 A. In October of 2020.

11 Q. And when did the last meeting occur for Project  
12 Quantize?

13 A. February of 2021.

14 Q. And how many of those approximately eight  
15 meetings were attended by Google's in-house counsel?

16 A. All of them.

17 Q. At any time did anyone at Alphabet discuss  
18 Project Quantize with any third party other than outside  
19 counsel employed by Alphabet?

20 MS. ELMER: Object to the form, assumes  
21 facts.

22 Q. (By Mr. Nakamura) At any time did anyone at  
23 Alphabet discuss Project Quantize with any third party?

24 A. No.

25 Q. How many employee hours in your reasonable

230

1 estimate have been spent on Project Quantize?

2 A. 20.

3 Q. Was Project Quantize undertaken in response to  
4 any investigations?

5 A. Yes.

6 Q. And what investigations was Project Quantize  
7 undertaken in response to?

8 A. The U.K. ICO, the Irish DPC.

9 Q. Any other investigations that Project Quantize  
10 was undertaken in response to?

11 A. Those were the two primary.

12 Q. Was there any anticipated litigation that  
13 Project Quantize was undertaken in response to?

14 A. Did you say anticipated litigation?

15 Q. Yes.

16 A. Can I have sidebar quickly?

17 Q. Sure.

18 MR. NAKAMURA: Let's go off the record.

19 THE VIDEOGRAPHER: Off the record at  
20 5:24 p.m.

21 (Recess taken)

22 THE VIDEOGRAPHER: On the record at  
23 5:27 p.m.

24 Q. (By Mr. Nakamura) All right. [REDACTED]  
25 was there any anticipated litigation that Project



1 Quantize was undertaken in response to?

2 A. No.

3 Q. Are there any other regulations other than GDPR  
4 that Project Quantize was undertaken in response to?

5 MS. ELMER: And I object to this question  
6 as invading the attorney/client privilege and instruct  
7 the witness not to answer.

8 Q. (By Mr. Nakamura) All right. Will you follow  
9 Ms. Elmer's instruction?

10 A. Yes.

11 Q. All right. Were any presentations prepared by  
12 Alphabet employees regarding Project Quantize?

13 A. Yes.

14 Q. How many?

15 A. Two.

16 Q. And when were those presentations made?

17 A. The presentations were made in December of 2020  
18 and then again with a larger group in January/February.

19 Q. In January and February of 2021. Is that  
20 right?

21 A. Yes, that's right.

22 Q. And who prepared the December 2020  
23 presentation?

24 A. [REDACTED].

25 Q. And who attended the December 2020

1 presentation?

2 A. Me, [REDACTED]

[REDACTED] That's it.

4 Q. Who created the January or February 2021  
5 presentation as part of Project Quantize?

6 A. It's the same presentation.

7 Q. And who attended that presentation in January  
8 or February of 2021 about Project Quantize?

9 A. So that would be the rest of the people you see  
10 in bullet 3 on page 6 of Exhibit 7 in addition to legal  
11 counsel.

12 Q. So the individuals who attended the Project  
13 Quantize presentation in January or February of 2021  
14 about Project Quantize are the Google in-house counsel  
15 included in the second-to-last bullet point on page 5 of  
16 Exhibit 7 and the Google employees included listed on  
17 the final bullet point on page 5 running over to page 6  
18 of Exhibit 7, correct?

19 A. Yeah. Let me be very clear. The second bullet  
20 point is in-house counsel; the third bullet point is the  
21 employees. And I believe all of them were involved in  
22 the January and/or February presentation.

23 Q. Thank you.

24 Did Alphabet employees rely on any data  
25 sources in preparing any analyses for Project Quantize?

1 MS. ELMER: So to the extent that  
2 responding to this question would invade the privilege,  
3 I instruct the witness not to answer. If there's a way  
4 to answer the question without invading the privilege,  
5 you may do so.

6 A. I guess I can say the text of the general  
7 protection regulation was one data source, and beyond  
8 that, I can't speak further.

9 Q. (By Mr. Nakamura) And the reason you cannot  
10 speak further is because of Ms. Elmer's privilege  
11 instruction. Is that correct?

12 A. Yes.

13 Q. Did Alphabet consider making any pricing  
14 changes to its ad tech products as a result of the work  
15 done for Project Quantize?

16 MS. ELMER: Same instruction.

17 A. Yeah. I choose not to answer per privilege.

18 Q. (By Mr. Nakamura) Okay. Thank you.

19 MR. NAKAMURA: Seumas, could you please  
20 upload into the Chat tab 12, please.

21 Q. (By Mr. Nakamura) [REDACTED] please let me  
22 know when you have this in front of you.

23 MR. NAKAMURA: Could the court reporter  
24 please mark this as Alphabet Exhibit 12.

25 (Exhibit 12 marked)

1 MR. NAKAMURA: This is a letter sent from;  
2 your counsel, Ms. Elmer, to me and the Antitrust  
3 Division on February 17th, 2022. Let me know when it's  
4 in front of you.

5 A. It's in front of me.

6 MS. ELMER: I'm going to object to any  
7 questions regarding this particular document or any of  
8 the topics set forth in it as outside the scope of the  
9 CID.

10 So the witness' testimony will be in his  
11 personal capacity and not as a 30(b)(6) witness.

12 Q. (By Mr. Nakamura) I'm going to ask you  
13 narrowly, [REDACTED] only about, as you see in the  
14 second full paragraph, "the future of 'display review'  
15 and meeting that occurred in 2020."

16 So my questions with respect to that are  
17 first was Project Sunday presented as part of that  
18 future of display review that occurred in 2020?

19 MS. ELMER: I instruct the witness not to  
20 answer the question because the future of display review  
21 is a privileged and work product project and this  
22 question is beyond the scope of the CID.

23 Q. (By Mr. Nakamura) All right. And will you  
24 follow that instruction, [REDACTED]

25 A. Yes.

1 Q. Was Project Monday presented as part of the  
2 future of display review?

3 MS. ELMER: Same instruction.

4 Q. (By Mr. Nakamura) All right. Will you follow  
5 that instruction?

6 A. Yes.

7 Q. Was Project Stonehenge presented as part of the  
8 future of display review?

9 MS. ELMER: Same instruction.

10 Q. (By Mr. Nakamura) And will you follow  
11 Ms. Elmer's instruction not to answer?

12 A. Yes.

13 Q. Was Project SingleClick presented as part of  
14 the 2020 future of display review?

15 MS. ELMER: Same instruction.

16 Q. (By Mr. Nakamura) And will you follow  
17 Ms. Elmer's instruction not to answer, [REDACTED]

18 A. Yes.

19 Q. Was Project Banksy remedies, the remedies  
20 version of that, presented at the future of display  
21 review in 2020?

22 MS. ELMER: Same instruction.

23 Q. (By Mr. Nakamura) Will you follow Ms. Elmer's  
24 instruction not to answer, [REDACTED]

25 A. Yes.

1 Q. And lastly, was Project Quantize presented at  
2 the 2020 future of display review?

3 MS. ELMER: Same instruction.

4 Q. (By Mr. Nakamura) All right. Will you follow  
5 Ms. Elmer's instruction not to answer my question,

6 [REDACTED]

7 A. Yes.

8 MR. NAKAMURA: All right. Let's go off  
9 the record.

10 THE VIDEOGRAPHER: Off the record at  
11 5:35 p.m.

12 (Recess taken)

13 THE VIDEOGRAPHER: Back on the record at  
14 5:45 p.m.

15 MR. NAKAMURA: Thank you. Could the court  
16 reporter please mark what has been put in the Chat as  
17 Alphabet Exhibit 30 [sic]. This document is a document  
18 that has been reproduced after a clawback from  
19 Alphabet's counsel with additional redactions applied.  
20 It is a document that begins with Bates  
21 No. GOOG-DOJ-AT-00205841, ending in Bates No. 5843.

22 (Exhibit 13 marked)

23 Q (By Mr. Nakamura) [REDACTED] I would like  
24 to direct your attention to the third page of this  
25 document ending in Bates No. 5842. Could you please let

1 me know when you are there.

2 A. I am there.

3 Q. Looking at the first full bullet point on  
4 page 4 of this PDF, did Project Stonehenge involve  
5 Alphabet's consideration of [REDACTED]

[REDACTED]?

7 MS. ELMER: And I instruct the witness not  
8 to answer the question. It's an improper question that  
9 attempts to invade the privilege, the work product  
10 doctrine, and on that basis instruct the witness not to  
11 answer.

12 Q. (By Mr. Nakamura) Will you follow Ms. Elmer's  
13 instruction, [REDACTED]

14 A. Yes.

15 Q. And was the [REDACTED] discussion  
16 mentioned in this bullet point one that was done  
17 separately from Project Stonehenge?

18 A. I don't know how to answer that with invading  
19 the privilege.

20 MR. NAKAMURA: Ms. Elmer, are you  
21 instructing [REDACTED] then not to answer my question?

22 MS. ELMER: Let's take a break to discuss  
23 an issue of privilege.

24 MR. NAKAMURA: All right. Let's go off  
25 the record.

1 THE VIDEOGRAPHER: Off the record at  
2 5:47 p.m.

3 (Recess taken)

4 THE VIDEOGRAPHER: Back on the record at  
5 5:49 p.m.

6 Q. (By Mr. Nakamura) And, [REDACTED] my  
7 question was was the [REDACTED] discussion  
8 mentioned in this bullet point on Exhibit 13, one, a  
9 discussion that was done separately from Project  
10 Stonehenge?

11 A. I can't answer questions about what was part of  
12 Stonehenge or not, as that would violate privilege.

13 MS. ELMER: Brent, I think if you were to  
14 ask the witness whether there were [REDACTED]  
15 discussions that were business discussions and not part  
16 of a work product project, he might be able to answer  
17 your question.

18 MR. NAKAMURA: All right. I will give  
19 that a shot.

20 Q. (By Mr. Nakamura) Were there [REDACTED]  
[REDACTED] discussions that were business discussions that  
22 occurred that were not part of a work product project?

23 A. Yes.

24 Q. And when did those discussions take place?

25 A. All the time for as long as I can personally



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1 remember and from what I've seen over the past five to  
2 ten years, quite regularly.

3 Q. And was Alphabet's consideration of [REDACTED]

[REDACTED]  
[REDACTED]?

6 MS. ELMER: And I'm going to object to  
7 this question as exceeding the scope of the CID, but the  
8 witness may answer in his individual capacity.

9 A. Yeah. I'll go so far as to say yes.

10 Q. (By Mr. Nakamura) And was the consideration of

11 [REDACTED]  
[REDACTED]

13 MS. ELMER: Same scope objection, but he  
14 may answer in his individual capacity.

15 A. Yes.

16 Q. (By Mr. Nakamura) And was [REDACTED]

17 was Alphabet's consideration of [REDACTED]

[REDACTED] part of Project Stonehenge?

19 MS. ELMER: I instruct the witness not to  
20 answer the question because your question invades the  
21 work product doctrine and the attorney/client privilege.

22 MR. NAKAMURA: Thank you.

23 Q. (By Mr. Nakamura) Will you follow Ms. Elmer's  
24 instruction?

25 A. Yes.

1 MR. NAKAMURA: And before we put this  
2 aside, I will register the Division's position that we  
3 believe that privilege has been waived over this  
4 document and the redactions that were made were not  
5 appropriate. So with that, [REDACTED] you can put  
6 that aside.

7 MS. ELMER: And we dispute that position,  
8 but that is not a discussion for this deposition.

9 Q. (By Mr. Nakamura) And -- I'm sorry. Go ahead.

10 A. I just think it's --

11 MS. ELMER: [REDACTED] that's okay.

12 THE WITNESS: Okay.

13 Q. (By Mr. Nakamura) [REDACTED] did you have  
14 anything to add?

15 A. Well, I just think real briefly in a document  
16 like this that starts to talk to smaller groups that are  
17 cross-functional, there's -- it's very difficult to get  
18 anything done in an organization this size without  
19 talking to the cross-functional partners on any given  
20 project.

21 So I just want -- like I know I had talked  
22 about it at the VP level and the acknowledgments and  
23 leadership as well, but it's also the case in these  
24 types of projects and all the projects we've been  
25 talking to, like you have to solicit all various

1 functions to get any sort of progress on those.

2 I get the feeling that a lot of the  
3 questions are around, you know, why were there so many  
4 people involved here. And it's because like to get  
5 anything done -- like legal can't answer these  
6 questions. These get pushed back to -- usually the  
7 starting point, legal says, Hey, there's something  
8 wrong. And then I've got to go figure out how to solve  
9 that; and to do that, it's going to have implications  
10 across the entire company.

11 So that's just a pattern that I don't  
12 think we really discussed, but I hope that sheds some  
13 light into why you see the cross-functional teams as the  
14 working groups in all of these areas.

15 Q. Okay. Thank you, [REDACTED] I appreciate  
16 that.

17 MR. NAKAMURA: Seumas, could you please  
18 load into the Chat tab 31, please.

19 Q. (By Mr. Nakamura) [REDACTED] please let me  
20 when you have that in front of you.

21 MR. NAKAMURA: While that is downloading  
22 for you, I will note that this is an -- could the court  
23 reporter please mark this as Exhibit 14 for Alphabet.

24 (Exhibit 14 marked)

25 MR. NAKAMURA: And this Exhibit 14 was a

1 document that was clawed back by Alphabet's counsel  
2 during this deposition and reproduced to us with  
3 additional redactions applied. This is a document that  
4 begins with Bates No. GOOG-DOJ-AT-00660900 and ends in  
5 Bates No. 0904.

6 Q. (By Mr. Nakamura) [REDACTED] I plan only to  
7 ask you about the first page. Please let me know when  
8 you have reviewed that.

9 A. Yes. I reviewed it.

10 Q. The first question is did Alphabet consider  
11 [REDACTED] as part of Project Stonehenge?

12 MS. ELMER: I instruct the witness not to  
13 answer the question because your question invades the  
14 work product doctrine and the attorney/client privilege.

15 Q. (By Mr. Nakamura) All right. And with respect  
16 to [REDACTED] question on May 13, 2020, to your  
17 knowledge, is there a PRG or one-page document that was  
18 produced as part of [REDACTED]?

19 MS. ELMER: Go ahead, [REDACTED] I'm sorry.

20 A. Yes.

21 MR. NAKAMURA: Ms. Elmer, did you have  
22 anything?

23 MS. ELMER: No, I didn't.

24 MR. NAKAMURA: Okay. Thank you. And with  
25 that, I will note, again, that the Division believes

1 that this document has been inappropriately clawed back  
2 and that privilege has been waived and that I should  
3 have been able to examine [REDACTED] as the Alphabet  
4 representative on what has now been redacted. But with  
5 that, I have no further questions on this document.

6 MS. ELMER: We dispute your position, and  
7 we're not going to argue about it here on the  
8 deposition.

9 MR. NAKAMURA: Fair enough.

10 Seumas, could you please put in the Chat  
11 tab 32.

12 While this is being uploaded, this is --  
13 if I can have the court reporter please mark this as  
14 Alphabet Exhibit 15.

15 (Exhibit 15 marked)

16 MR. NAKAMURA: This is a document that was  
17 clawed back by Alphabet's counsel during this deposition  
18 and had additional redactions applied. It is a document  
19 that begins in Bates No. GOOG-DOJ-AT-0030150, ending in  
20 Bates No. 0159.

21 For the record, I'd like to point the  
22 witness' attention to PDF page 4. That is a page ending  
23 in Bates No. 0152. I will note that additional  
24 redactions have been applied to several lines to a  
25 bullet point that begins "Antitrust worked with [REDACTED]"

1 [REDACTED] and [REDACTED] to build up expertise on the team to  
2 effectively work on regulation and antitrust inquiries."  
3 The rest of that bullet point has now been redacted.

4 I had planned to examine [REDACTED]  
5 Alphabet's representative, on what has now been  
6 redacted, and the Division believes that those  
7 redactions are inappropriate as waiver has occurred and  
8 that the redactions were in the first instance  
9 inappropriate in any event with respect to work product  
10 and attorney/client privilege.

11 With that and subject to anything  
12 Ms. Elmer would like to add, I have no further questions  
13 on this document.

14 MS. ELMER: We dispute your position with  
15 respect to waiver for all of the reasons that we've set  
16 forth in prior correspondence with you, particularly  
17 given the tremendous scope of the document production  
18 that's been made in this matter; but we're not going to  
19 argue about it here with you at the deposition.

20 MR. NAKAMURA: I appreciate that. And  
21 with that, I have no further questions subject,  
22 Ms. Elmer, to any questions you might ask [REDACTED]

23 MS. ELMER: I do not have any questions.

24 MR. NAKAMURA: All right. With that, no  
25 further questions.

1 Thank you, [REDACTED] and thank you,  
2 Counsel, for staying so late. Really appreciate it.  
3 And that's all I have.

4 THE VIDEOGRAPHER: This concludes today's  
5 deposition given by [REDACTED] The time off the  
6 record is 5:59 p.m.

7 (Proceedings concluded at 5:59 p.m.)  
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1 CHANGES AND SIGNATURE

2 WITNESS NAME: [REDACTED]

3 DATE OF DEPOSITION: February 28, 2022

4 PAGE LINE CHANGE REASON

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I, [REDACTED] have read the foregoing deposition  
and hereby affix my signature that same is true and  
correct, except as noted above.

THE STATE OF \_\_\_\_\_)  
COUNTY OF \_\_\_\_\_)

Before me, \_\_\_\_\_, on this day  
personally appeared [REDACTED] known to me or proved  
to me on the oath of \_\_\_\_\_ or through  
\_\_\_\_\_ (description of identity card  
or other document) to be the person whose name is  
subscribed to the foregoing instrument and acknowledged  
to me that he/she executed the same for the purpose and  
consideration therein expressed.

Given under my hand and seal of office on this \_\_\_\_\_  
day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC IN AND FOR  
THE STATE OF \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
No Changes Made \_\_\_\_\_ Amendment Sheet(s) Attached

UNITED STATES DEPARTMENT OF JUSTICE  
ANTITRUST DIVISION, WASHINGTON, D.C.

PURSUANT TO CIVIL INVESTIGATION DEMAND NO. 30762

REPORTER'S CERTIFICATE

ORAL DEPOSITION OF [REDACTED]

February 28, 2022

I, Melinda Barre, Certified Shorthand Reporter in  
and for the State of Texas, hereby certify to the  
following:

That the witness, [REDACTED] was duly sworn by  
the officer and that the transcript of the oral  
deposition is a true record of the testimony given by  
the witness;

That the original deposition was delivered to  
Brent Nakamura.

That a copy of this certificate was served on all  
parties and/or the witness shown herein  
on \_\_\_\_\_.

I further certify that pursuant to FRCP Rule  
30(f)(1), that the signature of the deponent:

\_\_\_\_\_ was requested by the deponent or a party before  
the completion of the deposition and that the signature is  
to be before any notary public and returned within 30 days

1 from date of receipt of the transcript. If returned,  
2 the attached Changes and Signature Page contains any  
3 changes and the reasons therefor:

4 \_\_\_\_\_ was not requested by the deponent or a  
5 party before the completion of the deposition.

6 I further certify that I am neither counsel for,  
7 related to, nor employed by any of the parties or  
8 attorneys in the action in which this proceeding was  
9 taken, and further that I am not financially or  
10 otherwise interested in the outcome of the action.

11 Certified to by me on this, the \_\_\_\_\_ day  
12 of \_\_\_\_\_, 2022.

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16 Melinda Barre  
17 Texas CSR 2192  
18 Expiration: 12/31/23  
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1 COUNTY OF HARRIS )

2 STATE OF TEXAS )

3 I hereby certify that the witness was notified on  
4 \_\_\_\_\_ that the witness has 30 days or (\_\_\_\_  
5 days per agreement of counsel) after being notified by  
6 the officer that the transcript is available for review  
7 by the witness and if there are changes in the form or  
8 substance to be made, then the witness shall sign a  
9 statement reciting such changes and the reasons given by  
10 the witness for making them;

11 That the witness' signature was/was not returned as  
12 of \_\_\_\_\_.

13 Subscribed and sworn to on this, the \_\_\_\_\_ day of  
14 \_\_\_\_\_, 2022.

15  
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20 Melinda Barre  
21 Texas CSR 2192  
22 Expiration: 12/31/23  
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